SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION

Agenda Item#__10.1a__

Meeting Date: July 21, 2011

Subject: **Grants, Entitlements, and Other Income Agreements**
Ratification of Other Agreements
Approval of Bid Awards
Approval of Declared Surplus Materials and Equipment
Change Notices
Notices of Completion

- ☐ Information Item Only
- ☒ Approval on Consent Agenda
- ☐ Conference (for discussion only)
- ☐ Conference/First Reading (Action Anticipated: _____)
- ☐ Conference/Action
- ☐ Action
- ☐ Public Hearing

Learning Support Unit/Department: Administrative Services

Recommendation: Recommend approval of items submitted.

Background/Rationale:

Financial Considerations: See attached.

Documents Attached:

1. Grants, Entitlements, and Other Income Agreements
2. Other Agreements
3. Recommended Bid Awards – Supplies/Equipment
4. Approval of Declared Surplus Materials and Equipment

Estimated Time:	N/A
Submitted by:	Daniel M. Sanchez, Manager II, Purchasing Services Kimberly Teague, Contract Specialist
Approved by:	Patricia A. Hagemeyer, Chief Business Officer

GRANTS, ENTITLEMENTS AND OTHER INCOME AGREEMENTS – REVENUE

Contractor	Description	Amount
ADULT EDUCATION		
A12-00001 Sacramento Employment & Training Agency (SETA)	7/1/11 – 6/30/12: Grant funding for Workforce Investment Act, Title I, Youth Program at Charles A. Jones Career and Education Center to serve 35 Out-of-School Youth Participants; and Resolution No. 2668 Authorizing Execution of WIA Service Provider Subgrant from the Sacramento Employment and Training Agency. Out-of-School participants are individuals between the ages of 18 and 24 who are not currently enrolled in public or private education, and who may or may not have completed a high school diploma, GED certificate, or equivalent. Students participate in an intensive program with low student to staff ratios for personalized assistance, and are provided guidance and support to meet their educational goals.	$131,950 No Match
ADULT EDUCATION		
A12-00002 Sacramento Employment & Training Agency (SETA)	7/1/11 – 6/30/12: Grant funding for Workforce Investment Act (WIA), Title I, Youth Program, Universal Services, and Resolution No. 2664 Authorizing Execution of WIA Service Provider Subgrant from the Sacramento Employment and Training Agency. Grant to provide funding for a Youth Specialist/Worker to assist youth, ages 14 – 21, in job development skills, job search & placement at Charles A. Jones Career and Education Center.	$71,500 No Match
ARTHUR A. BENJAMIN HEALTH PROFESSIONS HIGH SCHOOL		
A12-00003 The California Wellness Foundation	7/1/11 – 6/30/14: Grant for core operating support for the Arthur A. Benjamin Health Professions High School to continue to provide academic and career development programs for low-income students of color in Sacramento interested in pursuing careers in the health professions.	$150,000 (over 36 months) No Match
SAFE SCHOOLS		
A12-00004 The National Center for Safe Routes to School	7/1/11 – 6/30/12: Mini-grant to increase safe walking and bicycling to school at Pacific and Oak Ridge Elementary Schools by determining walking patterns, risks, and challenges to either pedestrian or bicycle commuting to school. Will also support education programs for parents and students focusing on safety.	$1,000 No Match

YOUTH DEVELOPMENT

A12-00005 California Department of Education	7/1/11 – 6/30/12: After School Education and Safety (ASES) Program Grant. Components include educational and literacy elements focusing on activities that reinforce and complement the academic programs, as well as recreational and youth development. Programs provide safe and constructive alternatives for students at 54 elementary and middle school sites. The partnering organizations are being determined through a request for proposal process. Sites: Abraham Lincoln, A.M. Winn, Bret Harte, Clayton B. Wire, Elder Creek, Ethel Philips, Father Keith B. Kenny, Fruit Ridge, Hollywood Park, Hubert Bancroft, Isador Cohen, James Marshall, Mark Hopkins, Mark Twain, O.W. Erlewine, Parkway, Peter Burnett, Pony Express, Susan B. Anthony, Tahoe, Washington, William Land, Joseph Bonnheim, Bowling Green, Camellia Basic, Cesar Chavez, C.P. Huntington, David Lubin, Earl Warren, Edward Kemble, Ethel I. Baker, Freeport, Golden Empire, H.W. Harkness, Jedediah Smith, John Bidwell, John Cabrillo, John Sloat, Maple, Martin L. King, Jr., Nicholas, Oak Ridge, Pacific, Theodore Judah, and Woodbine Elementary Schools; Albert Einstein, California Middle, Fern Bacon, Rosa Parks, Sam Brannan, John Still, Kit Carson, and Will C. Wood Middle Schools; and PS7 Charter School.	$6,902,456 No Match

YOUTH DEVELOPMENT

A12-00006 California Department of Education	7/1/11 – 12/31/12: 21st Century Community Learning Centers Grant for After School Safety and Enrichment for Teens (ASSETs) program at Luther Burbank High School. The school receives funding for a family literacy component through this grant.	$20,000 No Match

YOUTH DEVELOPMENT

A12-00007 California Department of Education	7/1/11 – 12/31/12: 21st Century Community Learning Centers Grant for After School Safety and Enrichment for Teens (ASSETs) – Direct Access program at Luther Burbank High School. Student transportation for ASSETs activities is provided through this grant.	$25,000 No Match

YOUTH DEVELOPMENT

A12-00008 California Department of Education	7/1/11 – 12/31/12: 21st Century Community Learning Centers Grant for After School Safety and Enrichment for Teens (ASSETs) program at Luther Burbank High School. ASSETs program provides opportunities for improved academic achievement, enrichment services that reinforce and complement the academic program, and family literacy and related educational development services. Community Partner: Sacramento Chinese Community Services Center	$250,000 No Match

YOUTH DEVELOPMENT

A12-00009 California Department of Education	7/1/11 – 12/31/12: 21st Century Community Learning Centers Grant for After School Safety and Enrichment for Teens (ASSETs) programs at American Legion, C.K. McClatchy, Hiram Johnson, John F. Kennedy, and West Campus high schools; and George Washington Carver School of Arts and Science. ASSETs programs provide opportunities for improved academic achievement, enrichment services that reinforce and complement the academic program, and family literacy and related educational development services. **Community Partners:** American Legion — Target Excellence C.K. McClatchy — City of Sacramento, Parks & Rec Hiram Johnson — Sac Chinese Community Center John F. Kennedy — Sac Chinese Community Center West Campus — Sac Chinese Community Center George W. Carver — City of Sacramento, Parks & Rec	$1,205,000 No Match

CHILD DEVELOPMENT

A12-00010 California Department of Education	7/1/11 – 6/30/11: General Child Care and Development Program Contract and Resolution No. 2665, Certifying Approval of the Governing Board to Enter into Transactions with the California Department of Education for the Purpose of Providing Child Care and Development Services and to Authorize the Designated Personnel to Sign Contract Documents for Fiscal Year 2011/12. This full-day program serves school-age and infant/toddlers. General child care and development programs are state and federally funded programs that use centers and family child care home networks operated or administered by either public or private agencies and local educational agencies. Programs provide an educational component that is developmentally, culturally, and linguistically appropriate for the children served. The programs also provide meals and snacks to children, parent education, referrals to health and social services for families, and staff development opportunities. The district is reimbursed $34.38 per child, per day.	$1,061,819 Reimbursement Agreement

CHILD DEVELOPMENT

A12-00011 California Department of Education	7/1/11 – 6/30/12: State Preschool Program Contract and Resolution No. 2666, Certifying Approval of the Governing Board to Enter into Transactions with the California Department of Education for the Purpose of Providing Child Care and Development Services and to Authorize the Designated Personnel to Sign Contract Documents for Fiscal Year 2011/12. Part- and full-day preschool programs are comprehensive, developmental programs for three to five-year-old children from low-income families. Programs emphasize parent education and encourage parent involvement. Activities are developmentally, culturally, and linguistically appropriate for the children served. Programs also provide meals or snacks to children, referrals to health	$5,071,057 Reimbursement Agreement

	and social services for families, and staff development opportunities. The district is reimbursed $34.38 per child, per day.	

CHILD DEVELOPMENT

A12-00014 California Department of Education	7/1/11 – 6/30/12: Pre-kindergarten and Family Literacy Program and Resolution No. 2667, Certifying Approval of the Governing Board to Enter into Transactions with the California Department of Education for the Purpose of Providing Child Care and Development Services and to Authorize the Designated Personnel to Sign Contract Documents for Fiscal Year 2011/12. Contract provides funding for supplemental support for interactive literacy activities for children and families. Funds will be used for materials for the "Raising a Reader" program at Ethel Phillips, Fr. Keith B. Kenny, John Sloat, Mark Hopkins, Oak Ridge, and Susan B. Anthony elementary schools. "Raising a Reader" program provides preschool families with books each week to read. Supplemental support includes district and community resources for adult literacy and information on the importance of reading with children.	$15,000 Income Contract

EXPENDITURE AND OTHER AGREEMENTS

Contractor	Description	Amount

COMPENSATION AND BENEFITS

SA12-00016 Benefit & Risk Management Services, Inc.	7/1/11 – 6/30/13: Online administration system for billing, reconciliation, and benefit costs tracking, including retiree benefits administration, over-age dependent tracking, Consolidated Omnibus Budget Reconciliation Act (COBRA), and self-funded plan for CalPERS retiree benefits reimbursement. Strategic Plan: Aligns with Pillar III by providing cost containment activities in the area of health benefits and supports continuous improvement in alignment with organizational transformation.	$280,000 General Funds

ACCOUNTABILITY OFFICE

SA12-00058 KC Distance Learning dba Aventa Learning	7/1/11 – 6/30/12: Online curriculum and support from Highly Qualified Teachers for high school credit recovery at Accelerated Academy as well as at high school sites. This program targets at-risk students seeking an alternative approach to high school graduation. For 2011/12, students at Success Academy will also have access to middle school coursework for instruction, intervention and enrichment. We are adding 120 seats (two classrooms) at Accelerated Academy (total enrollment 370) and will be piloting Advanced Placement online classes for high school students. Strategic Plan: Aligns with Pillar I by providing students the opportunity to access a 21st Century education using on-line curriculum that is relevant, rigorous, and well-rounded.	$381,250 Title I

ADULT EDUCATION

SA12-00059 Laarni Gallardo RN, B.S.N.	7/1/11 – 6/30/12: To serve as Director to the Certificated Nursing Program and Deputy Director to the Vocational Nursing Program for Adult Education Programs. Strategic Plan: Aligns with Pillars II and III by providing staff to supervise the Certified Nursing Assistant and Licensed Vocational Nursing Programs and support teaching and learning. The Board of Nursing and Psychiatric Technicians require that the school have a Director of Nursing and an Assistant Director of Nursing. Laarni Gallardo serves as the Assistant Director of the Vocational Nursing Program and the Director of the Certified Nursing Assistant program.	$79.200 Adult Education

PURCHASING SERVICES

R12-00374 Ray Morgan Company	4/4/11 – 4/30/13: Procurement of Copier services through Ray Morgan Company utilizing University of California Agreement # 70818. Purchasing agreements, as authorized by Public Contract Code 20118, allow other governmental agencies, such as school districts to piggyback on awards while still satisfying the legally required competition for contracts. The District is able to piggyback on the agreement and lease/purchase directly from Ray Morgan Company related copier, supplies, equipment and services. Strategic Plan: Aligns with Pillar III by providing services that support the educational program as well as aligning with organizational transformation.	Piggyback Pursuant to Public Contract Code §20118

APPROVAL OF DECLARED SURPLUS MATERIALS AND EQUIPMENT

ITEM	SITE/DEPARTMENT	TOTAL VALUE	DISPOSAL METHOD
Computer Equipment	Florin Technology Center	None	Recycle
	John Still Middle School	None	Recycle
	Rosa Parks Middle School	None	Recycle
	Yav Pem Suab Academy	None	Recycle
Office Equipment	John Still Middle School	None	Recycle
	Rosa Parks Middle School	None	Recycle
	District Warehouse	None	Recycle
Audio/Visual Equipment	Florin Technology Center	None	Recycle
	John Still Middle School	None	Recycle
	Rosa Parks Middle School	None	Recycle

SA12-00016

SA12-00016

Master Services Agreement

This Cover Page, including the Summary of Basic Terms below, together with the attached General Terms and Conditions and the Schedules thereto (the "Terms"), set forth the entire agreement of the parties with respect to services be provided by Benefit and Risk Management Services, Inc. ("BRMS") to below-named Employer (this "Agreement").

Summary of Basic Terms

Any capitalized terms not defined in this Cover Page shall have the meaning ascribed to them in the Terms in the attached General Terms and Conditions, unless the context clearly establishes a different meaning.

Employer: Sacramento City Unified School District

Effective Date: 7/1/2011

Covered Plans: Medical/Dental/Vision/Life/Retiree Reimbursement

Description of Third Party Administration Services:

- ☒ Plan Administration Services
- ☐ Claims Administration Services
  - ☐ Medical
  - ☐ Dental
  - ☐ Vision
- ☐ Medical Management
- ☒ Vbas Software License
- ☒ COBRA Administration Services
- ☐ FSA Administration Services
- ☒ Retiree Administration Services

Compensation: As set forth in the applicable Schedule.

Employer Primary Contact: Marianne Clemmens

NOW, THEREFORE, intending to be bound, the parties have executed this Agreement by and through their authorized representatives as set forth below:

Sacramento City Unified School District

By: _____

Printed Name: _____

Title: _____

Address: 5735 47th Avenue
Sacramento, CA 95824

BENEFIT & RISK MANAGEMENT SERVICES, INC.

By _____

Printed Name: Matthew Schafer

Title: Chief Executive Officer

Address 80 Iron Point Road, Suite 200
Folsom California 95630

GENERAL TERMS AND CONDITIONS

Employer hereby engages Benefit & Risk Management Services, Inc. ("BRMS") and BRMS hereby accepts such engagement by Employer to perform the Services to be provided under this Agreement. BRMS is hereby authorized to do all things necessary to carry out the terms, purposes and conditions of this Agreement and to perform the Services. In connection with the execution of this Agreement or subsequent thereto, the parties may mutually execute Schedules describing additional or complimentary Services to those described in these Terms. Such Schedules are hereby incorporated into this Agreement and made part of this Agreement as though fully set forth herein.

These Terms and Conditions (these "Terms") are made as of the Effective Date by and between BRMS and the Employer indicated on the attached Summary of Basic Terms in the Cover Page (the "Summary"). Any capitalized terms not defined in these Terms shall have the meaning ascribed to them in the Summary.

1. Definitions. In addition to the terms defined elsewhere in this Agreement, the capitalized terms in this Section will have the meanings ascribed to them below.

1.1 "Administrator" means the person, corporation or organization, including, Employer, appointed from time to time by Employer, who is responsible for the day-to-day functions and management of the Plan. The Administrator is Employer, or third party appointed by Employer unless BRMS has expressly undertaken the role of Administrator as part of the Services.

1.2 "Claim" means a request by a Covered Person to receive benefits under the Plan.

1.3 "Claimant" means an individual who makes a Claim.

1.4 "COBRA" means the Consolidated Omnibus Budget Reduction Act of 1985 and any amendments thereto.

1.5 "Continuation Coverage" means the continued group health care coverage required by COBRA as to employers employing greater than a designated number of persons.

1.6 "Covered Person" means any employee or dependent entitled to benefits under the terms of the Plan.

1.7 "Effective Date" means the effective date of this Agreement as set forth in the Summary.

1.8 "Employees" means all employees of Employer as defined under the terms of the Plan.

1.9 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

1.10 "Funds" means any and all assets and earnings of the Plan.

1.11 "HIPAA" means the federal Health Insurance Portability and Accountability Act of 1996 and any amendments thereto.

1.12 "Plan(s)" means any of the insurance benefits programs arranged by Employer and listed on the Summary, as they may be amended or modified in writing from time to time.

1.13 "Premium Trust Account" means the account into which premiums are deposited for the Plan.

1.14 "Qualified Beneficiaries" means any individual who, one (1) day before the occurrence of a Qualifying Event (as defined below) is covered under the Plan in one of the following capacities: (i) Spouse of the covered Employee; (ii) dependent child of the covered Employee; (iii) retired Employee; or (iv) self-employed individual, independent contractor or corporate director.

1.15 "Qualifying Event" means a loss or reduction of group health plan coverage due to: (i) death of an Employee; (ii) voluntary or involuntary termination of employment of an Employee (other than for gross misconduct); (iii) divorce of an Employee; (iv) reduction in the hours of an Employee; (v) entitlement of an Employee to Medicare coverage; (vi) dependent child ceasing to be dependent child under the terms and conditions of the Plan; or (vii) Employer's filing of a Chapter 11 bankruptcy petition (or such other events listed in Section 4980B of the Code).

1.16 "Schedule" means an addendum, exhibit or other attachment to this Agreement which references this Agreement and describes particular Services to be provided by BRMS to Employer.

1.17 "Services" means the services to be provided by BRMS to or on behalf of Employer as described in this Agreement, including the Schedules hereto.

2. Plan Administration Services. With respect to the administration of the Plan, BRMS shall have the following responsibilities:

2.1 Documents and Forms. BRMS shall design, prepare and cause to be printed and supplied to Employer the documents and forms which are necessary for the administration of the Plan. Any expense incurred in the printing of such documents and forms (including plan booklets and summary plan descriptions) shall be an expense of the Plan.

2.2 File Maintenance. Utilizing information provided by Employer, BRMS shall establish and maintain (i) eligibility files based upon the information provided by Employer and (ii) records of all participating Employees and their dependents (including retirees, COBRA participants and the student status of dependents if such services are elected by Employer) in accordance with the Plan.

2.3 Eligibility Processing. With respect to eligibility for participation in the Plan, BRMS shall have the following responsibilities:

(a) BRMS shall communicate eligibility for the Plan to Employees who have elected to receive benefits from such Plan. Such communication may include electronic transfer of data, faxing or mailing of enrollment forms or copies of enrollment forms, electronic-mail of pertinent eligibility information and / or telephone communications. It is noted that the communication of eligibility may at times require research and resolution of discrepancies, including reconciliation of monthly reports and bills with carrier information and other auditing tools as required.

(b) BRMS shall maintain Employee eligibility under groups, divisions or branches using a separate location status identifier, provided each such group, division, or branch is provided to BRMS by Employer.

(c) BRMS shall follow any guidelines or limitations of the Plan, provided such guidelines or limitations have been provided to BRMS by Employer. Examples of such guidelines and limitations are: eligibility of retirees, domestic partners, overage dependent limits, waiting periods, coverage effective dates, age banded rates, tier structure and rate change guidelines.

(d) BRMS shall furnish the eligibility and payment information to Employer for auditing purposes upon the request of Employer.

2.4 Government Reports. Upon request, BRMS will provide to Employer data regarding disbursements for administrative charges and other expenses of the Plan necessary for Employer's preparation of reports, tax returns, statements or other documents required to be filed by Employer with any local political subdivision, state government or federal government, including, all reports required to be filed pursuant to ERISA. However, Employer shall be solely responsible for the preparation and filing of any annual reports required by ERISA (including on IRS Form 5500) and BRMS shall not be responsible for the preparation and filing of such annual reports, unless BRMS specifically assumes such responsibility in a written agreement.

2.5 Premium Trust Account. Upon request, BRMS will provide assistance to Employer in Employer's efforts to develop an accounting policy for the Premium Trust Account designed to make contributions to the Premium Trust Account to insure that sufficient funds are available to meet the obligations of the Plan. It shall be the responsibility of Employer to determine if changes in the accounting policies for the Premium Trust Account are needed and/or appropriate.

2.6 Not Administrator. It is understood that BRMS is not and will not be treated as the Administrator or sponsor of any Plan for ERISA and all other purposes. BRMS is not a provider of health care services or benefits. Except as specifically set forth in this Agreement, BRMS shall have no responsibility or liability to any person for premiums of any Plan, or for payment of premiums or costs for any Plan provided by a third party.

2.7 Medical Expense Audits. BRMS, with notice to Employer, shall be authorized to incur expenses to validate the charges of medical providers, including hospitals. BRMS may hire a third party medical expense

auditor in connection with such validation. The cost of auditing the charges of medical suppliers under this Section shall be deemed an expense of the Plan. These costs will be applied toward any stop-loss provision of the Plan.

2.8 Access to Eligibility Data. BRMS agrees to allow and provide Employer complete and total access to Covered Person's eligibility data for the purpose of providing consulting assistance and customer service functions. Any and all available reports requested by Employer's designated agent shall be provided in a timely manner and in accordance with applicable state and federal privacy regulations.

2.9 Audit. Should the Plan be the subject of a Department of Labor audit or any audit or investigation by any federal or state government or any agency thereof, BRMS is specifically authorized by Employer to cooperate with any such audit or investigation.

2.10 Record Keeping.

(a) Plan Record Availability. BRMS will make copies of any Plan records and documents in its possession available to Employer upon request. Alternatively, BRMS shall permit authorized representatives of Employer, at reasonable times, to have access to, examine, and make copies of, such records and documents, at Employer's expense.

(b) Third Party Requests. Should copies of Plan records or documents be requested by any Employee, Covered Persons, court or governmental agency, BRMS will notify Employer of the request.

(c) Duplicating Charges. BRMS reserves the right, in its sole and absolute discretion, to condition the making of any copies on its advance receipt of its customary copying charges. Notwithstanding any of the foregoing, any examination or copying of any Covered Persons' records shall be carried out in accordance with applicable law.

(d) Record Retention. Upon the termination of this Agreement, BRMS shall have the option of retaining its copies of such records and documents for a period of three (3) years, or delivering them to Employer. In no event will BRMS intentionally destroy its copies of any Plan records or documents without first notifying Employer by regular mail, sent to Employer's last known address, and providing Employer at least thirty (30) days within which to request that such copies be delivered to Employer at Employer's cost.

3. Claims Administration Services. With respect to the administration, processing and payment of Claims, BRMS shall have the following responsibilities:

3.1 Claim Receipt. BRMS shall accept any Claim from Employer which shall be made in the manner prescribed by the Plan and upon the form or forms provided or approved by BRMS.

3.2 Eligibility Determination. BRMS shall determine eligibility of a Claim for the payment of benefits including, as necessary and in the sole discretion of BRMS, investigation and verification of any statements contained in the Claim.

3.3 Claim Payment. BRMS shall make payment from the Funds for Claims payable according to the Plan. Where authorized by the Plan, BRMS may make such payments to: (i) the Employee on behalf of a dependent, or (ii) to any physician, hospital, nurse or other medical supplier providing services to or on behalf of any Covered Person if there is an assignment of benefits executed by such Covered Person.

3.4 Claim Processing. BRMS shall complete Claim processing, determination and payment within a reasonable time of receipt of the Claim, taking into consideration of the timing and volume of Claims submitted and the factors reasonably affecting the ability of BRMS to process Claims.

3.5 Inadequate Funds. In the event that Funds adequate to allow payment of one or more Claims shall not be made available by the Plan at the time payment is due, BRMS shall have no responsibility to make any payment with regard to such Claims unless and until sufficient funds are made available.

3.6 Monthly Reporting. Within thirty (30) days after the last day of each calendar month, BRMS shall send Employer a written report setting forth all disbursements of Funds made by BRMS in payment of Claims during the preceding calendar month. The report shall include a separate statement indicating payments made to or on behalf of dependents (as defined by the Plan) of Employees during the same month.

3.7 Claim Denial. BRMS may deny any Claim if BRMS determines that such Claim or Claimant is not eligible for benefits under the Plan and/or any guidelines provided by Employer. In the event of a denial of any Claim, BRMS shall provide written notice to the Claimant setting forth the specific reason or reasons for such denial, including such other information as is required by the Plan to be provided, with a copy of such notice to the representative of Employer designated to receive such notices. A Claimant whose Claim has been denied shall be afforded any rights of appeal or other review process provided under the terms and conditions of the Plan or applicable law.

3.8 Claim Compromise. Upon direction of Employer, BRMS shall compromise and adjust any disputed Claim or application for benefits previously denied. However, any Claim so compromised or adjusted upon the direction of Employer may be considered as paid outside the coverage of the applicable excess risk policy of insurance and shall be the sole responsibility of Employer.

4. COBRA Claims Administration. With respect to the administration and processing of COBRA claims (including assisting Employer in the determination of the eligibility of applicants for COBRA coverage), if BRMS is engaged to perform such services, BRMS shall have the following responsibilities:

4.1 Initial COBRA Notification. BRMS shall provide the appropriate initial COBRA notification to covered Employees and dependent spouses in accordance with the requirements of COBRA.

4.2 Qualifying Event Notification. BRMS shall, upon notification from Employer of the occurrence of a Qualifying Event, promptly notify Qualified Beneficiaries of their right to continuation coverage under COBRA in accordance with the requirements of COBRA.

4.3 Monthly Reporting. BRMS shall, upon receipt of a response from an Employee selecting continuation coverage under COBRA, provide the following to Employer: (i) a monthly bill or coupon booklet directed to the recipient of continuation coverage to be used to remit payments of premium; (ii) receipt and accounting for premium payments; (iii) remittance of COBRA premiums received to Employer or the appropriate carriers and/or third party vendor; (iv) notice of termination of continuation coverage for nonpayment of premium, termination of coverage due to end of coverage period under COBRA, or termination of coverage for any reason permitted under COBRA.

4.4 Termination Notice. BRMS shall provide notice of termination of continuation coverage to the applicable Employee or other covered individual for nonpayment of premium, due to end of coverage period under COBRA, or for any reason permitted under COBRA

4.5 Benefits Payment. The source of payment of COBRA benefits payable under the terms of the Plan shall be contributions made by Employees. Expenses of administration of the Plan shall be paid from contributions made by Employer on behalf of eligible participating Employees and contributions made by eligible participating Employees, if any.

4.6 Premium Payment. Employer understands and agrees that COBRA regulations do not require Employer to provide participants with a monthly bill statement or payment coupon after initial enrollment by the COBRA participant and that it is the responsibility of the participant to pay their COBRA premiums when due regardless whether or not they receive a bill statement or payment coupon.

4.7 File Maintenance. BRMS shall maintain Employer's COBRA eligibility files and related records of all Employees and their dependents participating in COBRA in accordance with the Plan.

4.8 Premium Fee. BRMS is hereby authorized to assess, collect and retain an administrative fee to be invoiced with the COBRA premium payments received by BRMS from COBRA participants. This administration fee charged to the COBRA participant by BRMS will not exceed the legal maximum. The administration fee charged to the COBRA participant will be retained by BRMS to offset administrative charges that would otherwise be born by Employer.

4.9 Application Acceptance. To accept any application for benefits under COBRA from Employer made in the manner and on forms acceptable to BRMS.

4.10 Eligibility Determination. To assist Employer in the determination of eligibility for COBRA benefits payable under the terms of the Plan and to investigate and verify any statements contained in the application

for benefits that, in BRMS' sole opinion, require additional information for verification. With respect to the requirements of continued eligibility of dependent children, BRMS shall have the following responsibilities:

(a) BRMS shall request verification of student status two (2) times per year by notifying appropriate Covered Persons of their obligation to provide proof of student status for identified dependents upon request from BRMS.

(b) BRMS shall provide Employer with a written monthly report of those dependents who have exceeded the maximum age limit within the terms of the Plan and terminate identified dependents unless or until BRMS has or receives documentation identifying that said dependent is disabled.

4.11 Eligibility Notice. To communicate COBRA eligibility under the Plan to those Employees who have elected to receive COBRA benefits from such Plan.

4.12 Claims Payment. To pay Claims from Funds contributed by the Employees through the payment of COBRA premiums provided, however, that, in the event COBRA premium payments submitted by the Employees are inadequate to allow payment of any Claims, BRMS shall have no responsibility to make any payment with regard to such Claims.

4.13 Status Maintenance. To maintain COBRA eligibility under groups, divisions, or branches using a separate location status identifier provided such group, division, or branch is supplied to BRMS from Employer.

4.14 Regulation Compliance. To follow any rules or limitations under COBRA for the Plan, in which Employees may enroll, provided such rules or limitations were provided to BRMS by Employer. Examples of such rules are eligibility of retirees, domestic partners, overage dependent limits, waiting periods, coverage effective dates, age banded rates, tier structure and rate change rules.

4.15 Effect of Termination. All obligations of BRMS for processing of eligibility and disbursements of premiums payable under COBRA, will be terminated and extinguished upon the date of termination of this Agreement. Any COBRA premiums payable incurred prior to the date of termination will be processed and paid only for the time period up to and ending with the date of termination. COBRA payments remaining unprocessed or unpaid as of the termination of this Agreement shall be returned to Employer by BRMS and shall no longer be the responsibility of BRMS.

5. Vbas Service.

5.1 Vbas Defined. "Vbas" shall mean the machine readable version of the computer software located at (the "Site") provided by BRMS in connection with and as a material part of the Services.

5.2 Vbas License. Subject to the terms and conditions of this Agreement, BRMS hereby grants to Employer a non-exclusive, non-transferable and non-assignable license to access Vbas solely (i) through the Site; (ii) by and through Employer's Authorized Users; (iii) for Employer's internal business purposes and for no other purpose. BRMS hereby grants Employer a non-exclusive, non-transferable and non-assignable license to use the documentation, instructional materials and user guides for Vbas which BRMS may make generally available to BRMS' customers and in the form (paper or electronic) selected by BRMS (collectively, the "Documentation").

5.3 No Other Rights. Other than the license granted under Section 5.2, all right, title and interest in and to Vbas, the Documentation, and all portions of the foregoing, including all intellectual property rights (e.g. patent, trade secret, copyright, trademark and similar rights), shall remain the property of BRMS or its licensors, as applicable. Employer's use of third-party programs in conjunction with Vbas is not covered by this Agreement and will be governed solely by the terms and conditions of the applicable third party license agreements. Any rights not expressly licensed hereunder are reserved by BRMS.

5.4 Restrictions. To the maximum extent allowed by applicable law, neither Employer nor its Authorized Users (defined below) shall reverse engineer, reverse assemble, decompile or otherwise attempt to derive source code of any software located on the Site or utilized in connection with the Service, including Vbas. Neither Employer nor its Authorized Users shall (i) disassemble, unbundle or cause the disassembly or unbundling of Vbas for any purpose; (ii) use Vbas on a service bureau or time share basis or to provide services to third parties; (iii) distribute, copy, rent, lease, sublicense or otherwise transfer Vbas to any third party; (iv) grant any third party,

other than an Authorized User, access to Vbas; or (iv) modify Vbas for any purpose. Any modifications or configurations made to Vbas shall be made by BRMS and shall be the sole and exclusive property of BRMS.

5.5 Principle User. Employer will designate a single individual to act as the "Principle User" for Employer's use of Vbas. BRMS will provide the Principle User with a password to access and use Vbas. Principle User will have the ability to add, change or delete Employer Information on Vbas. Principle User will have the sole authority to grant or delete Vbas access privileges to Authorized Users (defined below). Employer is responsible for the designation of the Principle User and shall notify BRMS immediately by written notice should Employer wish to designate a replacement for the Principle User. Employer is solely responsible for the activation and deactivation of access for its Authorized Users.

5.6 Access to Vbas by Authorized Users. An individual shall be an "Authorized User" only so long as he/she is (i) an employee, contractor or agent of Employer who has received a valid password from the Principle User. BRMS recommends that the Employer have each Authorized User execute an Electronic Signature Authorization form (an "Authorization") available from BRMS. Employer is responsible for obtaining, maintaining and storing signed Authorizations and will be solely responsible for any liability or action that results directly from providing access to Vbas to any Authorized Users from whom Employer did not obtain a signed Authorization.

5.7 Passwords. Each Authorized User shall be issued a unique user name and password by the Principle User. Employer agrees and shall cause each Authorized User to agree, that no user name or password will be utilized at any time by any person other than the Authorized User to whom such user name or password was originally assigned. Upon written notice to BRMS, Employer may terminate an Authorized User's access and substitute a new Authorized User. Employer shall be solely responsible for all activities of its Authorized Users and any party who accesses Vbas through a password issued to Employer or an Authorized User. Employer agrees to immediately notify BRMS if Employer becomes aware of: (i) any loss or theft of any password, or (ii) any unauthorized use of any password, or (iii) any indication that anyone has or may have entered inaccurate, conflicting or inappropriate information into Vbas.

5.8 Electronic Signature. Employer agrees on its own behalf and on behalf of its employees, to adopt as its/their signature an employer identification code and a password, which is to be affixed to or contained in each transmission sent by such party ("Signature"). Employer hereby agrees and authorizes, on its own behalf and on behalf of its Employees, that its/their Signature shall act as its/their formal signature for all internet based transactions among Employer, its employees, BRMS, vendors and any and all third parties. The initial Signature will be provided by BRMS to the Principle User in confidence. While using Vbas, the Principle User and Employer's employees will have the ability to change their Signature at any time. Employer agrees and authorizes, on its own behalf and on behalf of its employees that any Signature of Employer affixed to or contained in any electronic document shall be sufficient to verify that Employer executed such document and authorized the actions contemplated thereby. Such Signature shall be treated in all respects as having the same effect as an original handwritten signature. In each case in this Section, where Employer purports to bind either its Authorized Users or its employees or both, Employer represents and warrants to BRMS that Employer has the express authority to bind such Authorized Users and/or employees and understands that BRMS is expressly relying on such representation as a material inducement to BRMS' willingness to enter into this Agreement.

5.9 Employer Information. Employer shall populate Vbas with the accurate and timely information necessary for use of Vbas by Employer and its Authorized Users including, employment, personal and payroll information on employees; contact information on each contracted vendor; benefit packages; and rates, payment, eligibility, contact, broker of record, benefits, coverage, enrollment information on each contracted Plan and employee handbook information (collectively the "Employer Information"). Employer is solely responsible for the accuracy of the Employer Information on Vbas.

5.10 Maintenance of Records. During the term of this Agreement, BRMS will maintain electronic records on Vbas pertaining to the use thereof by Employer and its Authorized Users. BRMS will also maintain electronic records of transactions among BRMS, third party vendors, the Employer and Authorized Users using Vbas. It is the responsibility of Employer to download (electronically or on paper) the Employer Information from Vbas prior to the termination of this Agreement. Except as specifically provided in this Section, BRMS will not be responsible for storing copies of the Employer Information for archiving or back-up purposes.

5.11 Accessibility of Records. Employer shall have access to all Employer Information available through Vbas during the term of this Agreement. Following termination of an Employee's benefits or of a Plan, BRMS will maintain the relevant electronic records in a manner accessible to Employer on Vbas for twenty-four (24) months following the termination of the subject employee or Plan (provided this Agreement remains in effect for such period).

5.12 Security. BRMS will utilize security mechanisms reasonable in its sole discretion to protect the confidentiality and integrity of the Employer Information provided to Vbas.

5.13 Right to Change Vbas. BRMS shall have the right in its sole discretion to change Vbas at any time, provided that BRMS shall provide Employer with thirty (30) days notice of any material change to the functionality of Vbas. BRMS is under no obligation to make any changes to Vbas that Employer may request.

5.14 Connection to Vbas. Employer, at its own expense, shall provide and maintain the equipment, software, communication lines, services and testing necessary to effectively and reliably transmit and receive documents and information over the Internet to and from Vbas.

5.15 Agreements and Contracts with Vendors. Employer acknowledges that it and its employees may, through the use of Vbas and otherwise, enter into separate agreements with vendors. The terms of such agreements shall be at the sole discretion of, and enforceable solely against, the parties thereto. BRMS makes no warranties or representations regarding, and shall have no liability with respect to, any coverage, right to coverage, eligibility, claims, enrollment, benefits, premiums, conditions, exclusions or any other terms which may be available or agreed to under any such agreements and/or policies issued by or entered into with such third party vendors.

6. Fidelity Bond. BRMS shall obtain a fidelity bond, reasonably satisfactory to Employer, providing protection for the Plan and related Funds against loss by reason of and act of fraud or dishonesty on the part of BRMS, whether directly or through connivance with others, such bond having as a surety thereon a corporate surety company reasonably acceptable to Employer and meeting the requirements of ERISA.

7. HIPAA Requirements. With respect to the requirements of HIPAA relative to health benefits, BRMS shall (i) accept a Certificate of Group Health Plan Coverage from Covered Persons and apply the certificate's information to the Covered Person's record; or (ii) upon notification of termination of coverage of a Covered Person by Employer, promptly provide a Certificate of Group Health Plan coverage to the subject person and subsequent certificates, as requested in accordance with the requirements of HIPAA.

8. Information from Employer. Employer shall provide the following documents and information to BRMS in order to allow BRMS to perform the Services:

8.1 Information in General. Throughout the term of this Agreement, Employer shall provide to BRMS, on a timely basis, all information that is requested by BRMS to perform the Services. In performing the Services, BRMS must necessarily rely upon Employer and others to provide BRMS with timely, accurate and complete information as requested by BRMS. BRMS shall not be responsible for any damages, claims or liability of any kind, caused directly or indirectly by the failure of Employer or others to provide such timely, accurate and complete information to BRMS, or by any other circumstance not within BRMS' direct control. Employer is responsible for supervising the production and timely delivery of all requested data and information to BRMS.

8.2 Plan Documents. Within a reasonable period of time after the Effective Date of this Agreement, Employer shall provide BRMS with copies of all Plan documents. Employer shall provide BRMS with a true copy of any Plan amendment within a reasonable period of time after the effective date of such amendment. All original Plan records and documents shall be maintained by Employer.

8.3 Covered Person Information. Throughout the term of this Agreement, Employer shall promptly provide to BRMS all information about the Employees and their family members who are Covered Persons under one or more Plans that BRMS may request or need in order for BRMS to perform the Services, including, census data (e.g., name, address, date of birth, date of hire, date of termination of employment, and hours of service), the coverage provided to the Employees and their family under the Plan, the effective date(s) of such coverage as to each such person, and all changes in such information.

8.4 New Covered Person Information. Within a reasonable period of time after a Covered Person first becomes covered by one or more Plans during the term of this Agreement, Employer shall provide BRMS with written notice of such coverage.

8.5 Changes in Information. Employer shall promptly notify BRMS of any changes in information previously given or supplied to BRMS, particularly with respect to any change or anticipated change in the Plan or in the Employee census data.

8.6 Plan Modifications. Employer agrees that it will immediately notify Employees and BRMS of the cancellation or change in coverage of any Plan covering Employees and/or their dependents. Employer agrees to provide BRMS with timely notice of and: (i) change to Plan, (ii) addition of new coverage to Plan, (iii) deletion of coverage from Plan; (iv) additions of new Plan and (v) cancellation or termination of any Plan (each a "Plan Change"). Employer shall indemnify, defend and hold BRMS harmless; from and against any and all Costs resulting (directly or indirectly) from the untimely notice to BRMS of any Plan Change.

8.7 Additional Information. Throughout the term of this Agreement, Employer shall provide to BRMS such additional information as may be required in the Schedules.

9. Duties of Employer. Employer understands and agrees to perform the following obligations:

9.1 Document Execution and Delivery. Employer shall be responsible for the timely execution and delivery or filing with the applicable public agency of all documents and forms required from the Employer under the Plan or by applicable law. Although BRMS may assist Employer as requested in the preparation of such documents and forms, the decision to prepare and file such documents and forms shall be the sole responsibility of Employer.

9.2 Collection of Plan Contributions. Employer shall collect the contributions (excepting co-pays made at the time medical service is provided), if any, to be made by Employees for coverage according to the terms of the Plan, in such manner as Employer may deem appropriate and shall thereafter transfer required premiums to the Premium Trust Account.

9.3 Premium Trust Account Deposits. Promptly upon receipt of notice from BRMS, Employer shall pay into the Premium Trust Account such amounts as BRMS may request in order to pay insurance premiums payable under the terms of the Plan.

9.4 Enrollment Form Collection. Employer shall be solely responsible for collection of completed enrollment forms of Employees wishing to obtain benefits under the Plan and shall promptly transmit all completed enrollment forms to BRMS.

9.5 Enrollment Supplies. Employer shall prepare or obtain supplies of enrollment forms, enrollment cards, Plan booklets and summary plan descriptions and shall distribute or make available such forms and documents to Employees.

9.6 Eligibility Verification. Employer shall verify the eligibility of any individual enrolling for benefits pursuant to terms of the Plan which verification shall be made on the benefit enrollment form submitted by Employer to BRMS.

9.7 Enrollment Rule Instruction. Employer shall inform BRMS in writing of all enrollment rules and limitations regarding the Plan. Examples of which are eligibility of retirees, domestic partners, overage dependent limits, waiting periods, coverage effective dates, age banded rates, tier structure and rate change rules.

9.8 Rate Information. Employer shall include on the enrollment forms submitted to BRMS all carriers and the rates of all coverage's and tier structures that may apply to the enrolling Employee and their dependents. Employer shall notify BRMS within five (5) business days, after receipt of any notification from a carrier of rate changes that affect a Covered Person's premium payments.

9.9 COBRA Obligations. With respect to the requirements of COBRA relative to mandatory continuation of coverage of health benefits, Employer shall have the following responsibilities:

(a) Employer shall maintain records tracking the loss or reduction of coverage of any Employee covered under the Plan due to any Qualifying Event.

(b) Employer shall, upon loss or reduction of coverage due to a Qualifying Event, immediately notify BRMS of such loss or reduction of coverage specifying the date thereof, the name of the Employee suffering such loss or reduction in coverage, the reason for such loss or reduction, and shall specify the last known mailing address of the Qualified Beneficiaries suffering a loss or reduction of coverage due to the occurrence of a Qualifying Event. It shall be the responsibility of Employer to notify BRMS of the occurrence of a Qualifying Event within fourteen (14) days after notice to Employer of the occurrence of such Qualifying Event.

(c) Employer agrees that BRMS shall not be responsible for any losses incurred by Employer due to the violation of the provisions of COBRA if such violations were occasioned by Employer's failure to abide by the terms and conditions of this Agreement.

(d) Employer shall be solely responsible for completion of the enrollment forms of Employees wishing to obtain benefits under COBRA by participation therein and shall transmit any enrollments from Employees with respect to details and shall advise BRMS promptly as to any enrollments for COBRA benefits made directly to Employer.

(e) Employer shall verify the eligibility of any Employee enrolling for COBRA benefits pursuant to terms of the Plan which verification shall be made on the benefit enrollment form supplied and submitted by Employer.

(f) Employer shall instruct BRMS in writing of all enrollment rules and limitations regarding all plans in which Employees may elect to enroll for COBRA benefits. Examples of which are eligibility of retirees, domestic partners, overage dependent limits, waiting periods, coverage effective dates, age banded rates, tier structure and rate change rules.

9.10 BRMS Not Plan Sponsor. BRMS is not and will not be treated as the sponsor or plan administrator of any of the Plans. BRMS is not a provider of health care services or benefits. BRMS shall have no responsibility or liability to any person for (i) any funding of any Plan benefits, (ii) the payment of any premiums or costs for Plan benefits provided by a third party (e.g., an insurance company or an HMO), (iii) providing any Plan benefits to any person, or (iv) the nature of quality of the benefits or services provided by third parties to Employer or any Covered Person.

9.11 Instruction Request. BRMS may, by written request, seek instructions from Employer on any matter related to the interpretation of a Plan or the benefits thereunder, and may await the written instructions from Employer without incurring any liability under this Agreement whatsoever. If at any time Employer should fail to give directions to BRMS in a timely manner, BRMS may act or refrain from acting, and shall be protected in acting or refraining from acting without such directions, as BRMS deems in good faith to be appropriate and advisable under the circumstances.

9.12 Business Associate Agreement. Concurrently with the execution hereof, Employer agrees to execute the Business Associate Agreement attached hereto as Exhibit B.

9.13 Dispute Resolution. If any dispute arises between Employer and any other person, including, without limitation, any Qualified Beneficiary, with respect to the interpretation of the Plan or the benefits thereunder, then BRMS shall not be obligated to take any other action in connection with the matter involved in the controversy until such time as the controversy is resolved. In addition, BRMS may deposit any cash or other property related to the controversy in an interpleader action with the court of jurisdiction under applicable law.

10. Banking Arrangements.

10.1 General Requirements. In the event any of the Services involve the handling by BRMS of Funds, BRMS shall segregate such Funds from BRMS' own funds. If BRMS is unable to make any payment to any third party from such Funds due to the failure of Employer to provide adequate Funds to BRMS in a timely manner, then (i) BRMS shall not be responsible to any person for the failure to make such payment in a timely manner and (ii) such payment shall be required of BRMS no earlier than three (3) business days after the receipt of adequate and available Funds from Employer. Employer covenants not to deliver to BRMS any Plan assets that must be held in trust, it being specifically understood that BRMS has no responsibility whatsoever for the establishment, maintenance or administration of any trust and that BRMS is not a trustee or fiduciary with respect to any Plan assets.

10.2 Application of Insufficient Funds. If at any time contributions to the Plan made pursuant to any Premium Trust Account policy shall not be sufficient to meet the obligations of the Plan with regard to premiums payable and expenses payable according to the terms of the Plan, and if Employer has not notified BRMS in writing that the Plan is to terminate on or before such date, BRMS shall apply the Premium Trust Accounts in its charge as follows:

(a) First, to the payment of fees and expenses incurred by BRMS in provision of the Services; and

(b) Second, to the payment of premiums payable and administrative fees prior to the due date of any unpaid contributions.

10.3 Plan Termination. In the event of termination of the Plan due to unpaid contributions, BRMS will provide notification to the Covered Persons of the occurrence of such termination and the priority as to disbursement of remaining available Premium Trust Accounts.

11. Debit Card ACH Agreement. Debit Card ACH Agreement means the required funds transfer agreement (shown in Exhibit C) which must be signed by the Employer utilizing the Evolution Benefits Program (debit card services provider). Automated Clearing House (ACH) is a secure nationwide electronic funds transfer network which enables participating financial institutions to distribute electronic credit and debit entries to bank accounts and to settle such entries.

12. Confidential Information. All confidential records, files, documents and the like relating to the Plan provided to BRMS by Employer shall be and remain the sole property of Employer and shall not be disclosed to third parties except as authorized in this Agreement, as otherwise authorized by Employer, or pursuant to the direction or order of a governmental agency or a court.

13. No Legal Services. Employer acknowledges that BRMS is not authorized to engage in the practice of law and that BRMS will not provide legal services to Employer or any other person. Employer shall not rely upon BRMS in any way for any legal opinions or legal documents that Employer or any Plan fiduciary may require. Whenever a legal issue arises in the course of the work to be performed under this Agreement, Employer shall obtain such legal counsel as may be necessary to resolve the issue. Employer shall notify BRMS of the resolution and BRMS shall be entitled to rely upon that decision in performing its services for Employer.

14. Advice and Recommendations. Although BRMS may from time to time call to Employer's attention and/or make recommendations regarding potential or actual problems with respect to the operation and administration of the Plan, Employer understands and agrees that such advice and recommendations are a matter of accommodation only and that BRMS has no duty to give such advice, make such recommendations, or otherwise to question any actions or decisions of Employer, the sponsoring employer, any Plan fiduciary, or any of their respective agents or employees.

15. Not a Fiduciary. Employer understands and agrees that BRMS is not the plan sponsor, plan administrator or plan fiduciary under ERISA for the Plan and that BRMS does not act in any fiduciary capacity with respect to the Plan. BRMS acts in an administrative support capacity only. BRMS shall not have any discretionary responsibilities in the administration of the Plan. BRMS shall not be responsible for reporting and disclosure compliance under ERISA. Employer will make certain that the sponsoring employer, all Plan fiduciaries, and the participants understand BRMS' nonfiduciary status as well. Employer and each Plan fiduciary shall retain his, her, its or their full authority, discretion and responsibility for the operation of the Plan with respect to which BRMS is providing the Services. Employer's decision as to any Claim under the Plan shall be final and binding. Employer represents and warrants that it is the employer, plan sponsor, plan administrator and plan fiduciary under ERISA for the Plan. Employer is solely responsible for state and federal disclosure and reporting requests in connection with its activities under this Agreement. Employer agrees to maintain Plan in full compliance with all applicable laws and regulations.

16. Payment of Fees.

16.1 Amount. In consideration for the Services performed by BRMS under this Agreement, Employer shall pay to BRMS the fees and expenses set forth in Exhibit A to this Agreement and/or the applicable Schedule. Within thirty (30) days after the conclusion of each calendar month during the term of this Agreement, BRMS shall

provide Employer with a monthly invoice of the amount due to BRMS for the Services and any direct expenses incurred in performance of the Services.

16.2 Additional Service Fees. Employer will pay BRMS its then applicable hourly rates for any Services performed for Employer by BRMS that are not included in this Agreement or any Schedule. As of the Effective Date, the hourly rate for additional Services is seventy-five dollars ($75) and the hourly rate for programming or custom reports is one hundred fifty dollars ($150). BRMS reserves the right to change the hourly rate at any time without advance notice to Employer. Employer shall pay BRMS its fees for any reprocessing of work, or if the unusual amount of time is spent by BRMS in performing the Services, as a result of circumstances beyond BRMS' reasonable control.

16.3 Due Date. All fees and charges shall be due when invoiced and will be considered in default if not paid within thirty (30) days after the invoice date. Unpaid fees and charges will bear a service charge equal to the greater of five percent (5%) of the amount billed or twenty-five dollars ($25). BRMS' obligation to provide the Services is expressly conditioned upon timely payment of its fees by Employer.

17. Term. The term of this Agreement shall commence on the Effective Date and continue until terminated in accordance with Section 18.

18. Termination.

18.1 Manner of Termination. This Agreement or any Schedule may be terminated in the following manner:

(a) By Employer, by delivering at least ninety (90) days prior written notice of termination to BRMS and paying BRMS all fees owed through the effective date of termination;

(b) By BRMS, by delivering at least ninety (90) days prior written notice of termination to Employer;

(c) By BRMS, by delivering written notice to Employer, in the event Employer fails to provide Funds necessary for the performance of BRMS' Claims administration responsibilities under this Agreement;

(d) By either party, by delivering, at least thirty (30) days written notice of the other's breach of a material obligation under this Agreement, provided that such breach is not cured within such thirty (30) day notice period; or

(e) Automatically, upon the voluntary or involuntary bankruptcy or dissolution of either party.

18.2 Abbreviated Termination. In the event that Employer terminates this Agreement or any Schedule without cause upon less than the ninety (90) days notice period described in Section 18.118.1(a), then on the effective date of termination (and subject to adjustment as described in Section 18.4), Employer shall pay BRMS for two (2) months of compensation for the terminated Services where such compensation shall be equal to two (2) times the compensation due for the last month immediately preceding Employer's notice of termination.

18.3 Allocation of Assets. Within sixty (60) days after termination, BRMS shall deliver to its successor or such other person or entity as may be designated by Employer such Funds of the Plan which remain in the possession of BRMS, if any, at which time BRMS shall be relieved of any obligation to make further payments under the Plan for Claims or otherwise.

18.4 Final Accounting. Within the sixty (60) days after the effective date of termination, BRMS shall deliver a final accounting to Employer which shall include an accounting of receipts, disbursements and other transactions of BRMS regarding the Plan.

18.5 File Delivery on Termination. Upon termination of this Agreement, BRMS shall deliver all eligibility files to Employer. Employer shall: (i) pay the costs of shipment of such eligibility files to Employer; and (iii) store such files in accordance with applicable laws and regulations. Employer further agrees to return to BRMS, upon request, any eligibility file that may relate to any lawsuit or proceeding involving BRMS relating to BRMS' activities as third-party administrator provided pursuant to the authority set forth in this Agreement.

18.6 Conclusion of Obligations. All obligations of BRMS under this Agreement (excepting those specifically referenced in this Section 17), including the responsibility for communicating eligibility and disbursements of premiums, will be terminated and extinguished upon the date of termination of this Agreement.

18.7 Notification of Termination. In the event of termination of this Agreement by either party Employer shall immediately notify all of the Covered Persons that this Agreement has been terminated.

19. Liability Limitation. Employer agrees that, except to the extent caused by BRMS' gross negligence or willful misconduct, BRMS shall not be responsible for any damage, loss, demand, benefit, liability, payment, tax, penalty, cost or fee (including, all costs and fees of litigation and its threat, including attorneys' fees), of any nature whatsoever (collectively, "Costs"), arising from or related to claims, allegations or actions (each an "Action") pertaining to (i) the Plan, (ii) any of the Services, (iii) any refusal by BRMS to provide Services due to Employer's failure to perform any of Employer's obligations under this Agreement; or (iv) any Employer Information posted to Vbas.

20. Employer Indemnity. Employer agrees to indemnify, defend and hold harmless BRMS, its shareholders, directors, officers, employees, agents and subcontractors from and against any and all Costs arising from or related to any and all third party Actions regarding: (i) the action or inaction of Employer in connection with this Agreement (ii) the provision of the Services by BRMS, except to the extent the Action pertains directly to BRMS' gross negligence or willful misconduct; (iii) attempts to recover benefits alleged to be payable under the terms of the Plan, except to the extent the Action pertains to BRMS' gross negligence or willful misconduct; (iv) any Employer Information posted to Vbas; (v) any breach of this Agreement by an Authorized User of Vbas.

21. BRMS Indemnity. BRMS agrees to indemnify, defend and hold harmless Employer from and again any and all Costs actually incurred by Employer in connection with any party Action only to the extent directly attributable to BRMS' gross negligence or willful misconduct in performing the Services and subject to the provisions of Section 25.2.

22. Insurance Requirements. BRMS shall provide and keep in force during the term of this Agreement, at its own expense:

Insurance Type	Coverage
Workers' compensation	Compliance with California requirements
General liability	$1,000,000/per occurrence; $2,000,000/ general aggregate
Errors and omissions	$1,000,000 per individual Claim
Comprehensive crime	$250,000/ employee dishonesty

23. No Underwriting by BRMS. Employer expressly agrees and understands that BRMS does not insure or underwrite the liability of Employer under any Plan. BRMS verifies the eligibility of an individual for benefits under the Plan only and in no event guarantees payment of benefits. Employer retains sole responsibility for payment of all Claims made under the Plan and all expenses and fees incurred incident thereto.

24. Agency Authority. Employer hereby grants to BRMS, on Employer's own behalf and on behalf of its employees, the authority to act as their limited agent (solely as provided herein) and to contact, interact with and transact business with vendors, brokers of record and contracted consultants of Employer through Vbas or otherwise. This authorization includes, but is not limited to, the release of file specifications, eligibility data and premium information.

25. General Provisions.

25.1 Notice. All notices provided for hereunder shall be in writing and shall be deemed to be given (i) upon receipt after being sent by overnight courier which issues a receipt, charges pre-paid, (ii) upon the date indicated in the return receipt when sent by United States mail, first class, registered or certified, return receipt requested, with proper postage prepaid, or (iii) upon receipt, by commercial express document delivery service which issues an individual delivery receipt, in each case to the address set forth on the Summary. The parties hereto may change their notice address or add additional addresses for the giving of notice by giving notice of such changed or additional addresses to the other party hereto in the manner set forth herein.

25.2 Limitation of Liability. BRMS SHALL NOT BE LIABLE TO EMPLOYER FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER INCLUDING

DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA OR OTHER PECUNIARY LOSS, WHETHER ARISING IN CONTRACT OR TORT, INCLUDING NEGLIGENCE, ARISING OUT OF OR RELATED TO THIS AGREEMENT. THIS LIMITATION SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. IN NO EVENT SHALL BRMS' AGGREGATE LIABILITY HEREUNDER BE GREATER THAN THE FEES ACTUALLY RECEIVED BY BRMS FROM EMPLOYER FOR THE PARTICULAR SERVICES GIVING RISE TO THE LIABILITY. THE LIMITATION SHALL APPLY EVEN IF BRMS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

25.3 Limitations on Actions. Notwithstanding any applicable law that may provide for a longer period of time, no action, regardless of its form, arising out of this Agreement may be brought by either party more than two (2) years after the cause of action has arisen or, if the action involves nonpayment, more than two (2) years after the date of the last payments.

25.4 No Third Party Beneficiaries. Nothing in this Agreement is intended, nor shall be construed, to create any rights by or on behalf of any person who is not a party to this Agreement.

25.5 Force Majeure. Excepting Employer's payment obligations hereunder, neither party shall be liable for failure to perform any of its obligations under this Agreement to the extent that such failure is caused by circumstances beyond such party's reasonable control, including acts of God, civil disturbances, natural disasters, actions or decrees of governmental bodies. Upon the occurrence of any such event, the affected party promptly shall give notice to the other party and shall use reasonable efforts to resume performance.

25.6 Governing Law and Arbitration. Any dispute or claim arising out of or relating to this Agreement, in the interpretation, performance, breach or termination thereof, shall be finally settled by binding arbitration in Sacramento County, California, under the rules of the American Arbitration Association by one (1) arbitrator appointed in accordance with such rules. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitrator shall apply California law to the merits of any dispute or claim, without reference to rules of conflict of law. Nothing in this Section 25.6 shall prevent or delay either party from applying to any court of competent jurisdiction for temporary restraining order, preliminary injunction, or other interim or conservatory relief, as necessary, and such action shall not serve as an abridgement of the powers of the arbitrator provided, that the arbitrator shall have the authority to determine whether such temporary restraining order, preliminary injunction, or other interim or conservatory relief shall continued or terminated. The parties shall share the costs of the arbitration, including the arbitrator's fee, equally. Each party shall bear the cost of its own attorney's fees and expert witness fees. Each party consents to the personal jurisdiction and venue of the state and federal courts located in Sacramento County for the enforcement of any arbitrator's award.

25.7 Severability. The invalidity in whole or in part of any provision hereof shall not affect the validity of any other provision. The provisions of this Agreement are severable and if any one or more such provisions shall be determined to be invalid, illegal or unenforceable, in whole or in part, the validity, legality and enforceability of any of the remaining provisions or portions hereof shall not in any way be affected or impaired thereby and shall nevertheless be binding between the parties hereto. Any such invalid, illegal or unenforceable provision or portion thereof shall be changed and interpreted so as to best accomplish the objectives of such provision or portion thereof within the limits of applicable law or applicable court decisions.

25.8 Waiver. A waiver of a breach of any term of this Agreement must be in writing and shall not be construed as a waiver of any succeeding breach of that term or as a waiver of the term itself. A party's performance after the other's breach shall not be construed as a waiver of that breach.

25.9 Assignment. Neither party shall assign this Agreement or any rights hereunder, by law or otherwise, without the other party's prior written consent. Notwithstanding the foregoing, BRMS may assign or transfer this Agreement in whole or in part without the prior written consent of Employer in connection with (i) a financing of BRMS or any of its assets, (ii) a merger of BRMS with a third party, (iii) the sale of all or any part of the outstanding capital stock of BRMS, (iv) the sale of all or substantially all of BRMS' assets or those assets of BRMS related to this Agreement. In the case of any permitted assignment or transfer of or under this Agreement, this Agreement or relevant provisions shall be binding upon, and inure to the benefit of, the successors, representatives, administrators and assigns of the parties hereto. All purported assignments or transfers in violation of this Section shall be null and void. For avoidance of doubt, BRMS may subcontract any or all of the services

required hereunder to any of BRMS' affiliates and subsidiaries, contracted providers, and approved vendors without the written consent of Employer.

25.10 Headings/Interpretation. Headings used in this Agreement are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section or in any way affect this Agreement. Where the context provides, the singular shall include the plural and terms shall be interpreted as gender neutral. The word "including" shall be read as "including without limitation". When a reference is made in this Agreement to an Article or a Section or Schedule, such reference shall be to a Section of, or Schedule to this Agreement unless otherwise indicated.

25.11 Consents. Wherever this Agreement requires either party's approval, consent or satisfaction, such approval, consent or satisfaction may not be unreasonably or arbitrarily withheld, conditioned or delayed.

25.12 Independent Contractors. BRMS is an independent contractor, and no partnership, joint venture or employee-employer relationship is intended or created by this Agreement. Except as expressly set forth herein in connection with the Services, BRMS has no authority to contract for or bind Employer in any manner whatsoever. This Agreement confers no rights upon either party except those rights expressly granted herein. Each party assumes full responsibility for its actions and the actions of its personnel in rendering performance pursuant to this Agreement.

25.13 Entire Agreement. This Agreement including the Schedules hereto sets forth the entire understanding and agreement of the parties with respect to the subject matter hereof and any and all previous agreements, representations or understandings, whether oral or written, which are inconsistent with or additional to any of the various terms and conditions of this Agreement are hereby canceled, rendered null and void and superseded in their entirety. No agreement or understanding to modify this Agreement shall be binding upon a party unless agreed to in writing by an authorized representative of such party.

25.14 Counterparts. This Agreement may be executed in counterparts with the same force and effect as if each of the signatories had executed the same instrument. If this Agreement is executed in counterparts, no signatory hereto shall be bound until both parties named below have duly executed or caused to be executed a counterpart of this Agreement.

25.15 Survival. The following provisions shall survive the expiration or termination of this Agreement for any reason: Sections 18.4, 18.6, 18.7, 21, and 25.

25.16 Costs, Expenses and Attorneys' Fees. In the event either party takes any action to enforce any of the terms and conditions hereof, the unsuccessful party to such action shall pay to the successful party all costs and expenses, including reasonable attorneys' fees incurred by the successful party in the defense and resolution of such action.

25.17 Authority. Each party represents and warrants to the other that the person executing this Agreement on its behalf does so with full corporate authority and as the expressly authorized agent of such party.

EXHIBIT A

Sacramento City Unified School District

FEES 2011– 2012

Service Description	Fee
TPA CLAIMS SERVICE/GROUP HEALTH: **Two Year Rate Guarantee Effective 7/1/2011-6/30/2013**	
(a) Retiree Administration Services a. Billing Retirees difference from STRS b. Billing Retirees for Dental and Vision c. Running Retirees monthly through SSA Website d. Retiree Reimbursement Checks e. Confirmation Statements	$2.10 pepm
(b) Dental Claims Administration	N/A
(c) Vision Claims Administration	N/A
(d) Claims Administration Set up Fee	N/A
(e) Medical PPO Network Access & Repricing	N/A
(f) Dental Network Access Fee	N/A
(g) BRMS Medical Management – Utilization Review Includes: Preadmission review, concurrent review, and discharge planning	N/A
(h) Large Case Management	N/A
(i) BRMS Rx Integration and Administration Fee Note: Pricing does not include the per script fee charged by PBM	N/A
(j) Annual Renewal Fee Note: Vbas Renewal fees are calculated multiplying $1.50 times the number effected employee's times the number of Plan or Rate changes. Fee includes inputting all benefits rules, plan summaries, carrier links, census data uploads and all other customizations for each plan. Renewal costs only incur if there is a change in plans/carrier.	Waived
Cobra Administration: Dental and Vision Only	$0.90 pepm
Set up Fees	N/A
FSA Administration:	
Flexible spending account administration	N/A
Virtual Benefit Administration System (Vbas):	
Vbas Access	$3.50 pepm

Consolidated Billing	N/A
Customer Support Call Center	N/A
SUPPLEMENTAL SERVICES:	
Special Reporting Fee	$125 / hour
Programmer Fee	$125 / hour
Additional Training Fee	$125/ hour
Auditing Fee	$125 / hour

BRMS has the right to adjust the dollar amounts above at any time upon a thirty (30) day notice in the event that the Plan is amended or the composition of the group of individuals covered under the Plan is changed in a material way; or, if the cost of operation is increased solely by virtue of a change in charges to the BRMS by a governmental unit or a third party vendor. Such adjustment shall be limited to the amount of increased cost incurred by BRMS due to any of the above listed changes that affect any of the listed charges on this exhibit.

IN WITNESSETH WHEREOF, the parties hereto have caused this Agreement to be executed, under seal, on their behalf by their officers or duly authorized representatives, as of the day and year first above written.

Sacramento Unified School District	BENEFIT & RISK MANAGEMENT SERVICES INC
By _____	By Matthew C Schafer
Printed Name: _____	Printed Name: Matthew Schafer
Title: _____	Title: Chief Executive Officer
Date _____	Date 6-24-11

EXHIBIT B

HIPAA Business Associate Agreement

This HIPAA Business Associate Agreement by and between Benefit & Risk Management Services (BRMS) (hence forth referred to as "Client") and Sacramento Unified School District (henceforth referred to as "Business Associate") is jointly entered for the exchange of information supporting a participating employer of the Trust.

A. Definitions. For the purpose of this Agreement, the following terms shall have the meaning ascribed to them in this Schedule. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear.

(1) Designated Record Set shall mean a group of records maintained by or for Client that is (i) the medical records and billing records about Individuals maintained by or for Group Benefit Plan; (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for Client to make decisions about individuals. As used herein the term "Record" means any item, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used or disseminated by or for Group Benefit Plan. "Designated Record Set" shall have the meaning assigned to such term in 45C.F.R. § 164.501.

(2) HIPAA shall mean the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated there under by the U.S. Department of Health and Human Services.

(3) HIPAA Privacy Regulations shall mean the regulations at Title 45, Parts 160 through 164 of the Code of Federal Regulations, as the same may be amended from time to time.

(4) Individual shall mean the person who is the subject of the Protected Health Information and has the same meaning as the term "individual" is defined by 45 C.F.R. § 164.501. "Individual" will also include that person's personal representative as define by 45 C.F.R § 164.502 (g) (l).

(5) Individually Identifiable Health Information shall mean Information that is a subset of health information, including demographic information collected from an Individual, and: (i) is created or received by a health care provider, health plan, Group Benefit Plan, or health care clearinghouse; and (ii) relates to the past, present, or future physical or mental health or condition of an Individual; the provision of health care to an Individual; or the past, present or future payment for the provision of health care to an Individual; and (a) identifies the Individual, or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the Individual.

(6) Protected Health Information (PHI) shall mean Individually Identifiable Health Information received by Business Associate from or on behalf of a Client that is (i) transmitted by electronic

media; (ii) maintained in any medium constituting Electronic Media; or (iii) transmitted or maintained in any other form or medium.

(7) Secretary shall mean the Secretary of the Department of Health and Human Services ("HHS") and any other officer or employee of HHS to whom the authority involved has been delegated, specifically including, but not limited to, the Office for Civil Rights.

(8) Transaction Standard Regulation shall mean the regulations at Title 45, Parts 160 and 162 of the Code of Federal Regulations, as the same may be amended from time to time.

(9) Covered Electronic Transactions shall have the same meaning as defined in 45 C.F.R. § 160.103.

(10) Electronic Protected Health Information shall have the same meaning as defined in 45 C.F.R. § 160.103.

(11) Security Incident shall have the same meaning as defined in 45 C.F.R. § 164.304.

(12) Security rule shall mean the Security Standards and Implementation Specifications at 45 C.F.R. Part 160 and 164, subpart C.

B. Business Associate's Use and Disclosure of Protected Health Information. Business Associate represents and warrants that (i) it has the right and authorization to disclose Protected Health Information to perform its obligations and provide services to Client and (ii) Business Associate's use of Protected Health Information to perform its obligations and provide services requested by Client does not violate the Privacy Rules, Group Benefit Plan's privacy notice or any applicable law. Client shall not request and/or disclose in any manner Protected Health Information in any manner that would not be legally permissible. Business Associate shall be permitted to use and/or disclose minimum necessary Protected Health Information provided or made available from Client for the following stated purposes:

(1) Business Associate may use or disclose the Protected Health Information for the purposes necessary to fulfill its obligations and perform functions, activities, or services, for, or on behalf of, the Client as specified in the service agreements or contracts between the Client and the Business Associate.

(2) Business Associate is permitted to disclose Protected Health Information received from Client for the proper management and administration of Business Associate or to carry out legal responsibilities of

Business Associate, provided: (i) the disclosure is required by law; or (ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed by the person, the person will use appropriate safeguards to prevent use or disclosure of the information, and the person immediately notifies Business Associate of any instance of which it is aware in which the confidentiality of the information has been breached. Additionally, Business Associate may use and disclose Protected Health Information to a third party if otherwise authorized by Client or as authorized by Individual in accordance with Section 164.508 of the HIPAA Privacy Regulations with respect to his or her own Protected Health Information.

(3) In addition to the other uses and disclosures of Protected Health Information permitted under this Agreement, Business Associate may use Protected Health Information to create information that is not Individually Identifiable Health Information, or may disclose Protected Health Information to an agent or subcontractor of Business Associate for such purpose, whether or not the de-identified information is to be used by Business Associate. Business Associate may use or disclose such de-identified information in any manner Business Associate deems appropriate.

(4) Business Associate is also permitted to use or disclose Protected Health Information to provide data aggregation services, as that term is defined by 45 C.F.R. § 164.501, relating to the health care operations of Client and Plan, or as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

(5) Business Associate may use Protected Health Information for purposes of research and marketing. If Business Associate uses or discloses Protected Health Information for research or marketing purposes, Client agrees to obtain the necessary prior authorization from the Individual.

C. Business Associate Obligations:

(1) Limits on Use and Further Disclosure Established by Contract and Law. Business Associate agrees that the Protected Health information provided or made available by Client shall not be further used or disclosed other than as permitted or required by this Agreement or as required by law. However, Business Associate reserves the right to use PHI for its own internal management and compliance purposes.

(2) Appropriate Safeguards. Business Associate agrees to use commercially reasonable safeguards to prevent any use or disclosure of the Protected Health Information, other than as provided for by this Agreement. Business Associate also agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the Client.

(3) Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

(4) Reports of Improper Use or Disclosure. Business Associate agrees that it shall report to Client within a reasonable time period discovery of any use or disclosure of Protected Health Information not provided for or allowed by this Agreement. Business Associate also agrees to report any security incident of which it becomes aware. Security incident shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system.

(5) Subcontractors and Agents. Business Associate agrees that anytime Protected Health Information is provided or made available to any subcontractors or agents, Business Associate must enter into a subcontract with the subcontractor or agent that contains the same terms, conditions and restrictions on the use and disclosure of Protected Health Information as contained in this Agreement. Moreover, Business Associate shall ensure that any such agent or subcontractor agrees to implement reasonable and appropriate safeguards to protect Client's PHI.

(6) Right of Access to Information. Within thirty (30) days of a written request by Client for access to Protected Health Information about an Individual contained in a Designated Records Set, Business Associate shall make available to Client such Protected Health Information for so long as such information is maintained in the Designated Record Set. A decision on what constitutes a Designated Record Set shall be jointly determined by the parties. If Business Associate is unable to provide Client or Individual with access within required time frame, or records are maintained offsite, Business Associate will notify Client so Client may request, in writing, an extension from the Individual. In the event any Individual requests access to Protected Health Information directly from Business Associate, Business Associate shall within five (5) days forward such request to Group Benefit Plan. Any denials of access to the Protected Health Information requested shall be the responsibility of Group Benefit Plan.

(7) Amendment and Incorporation of Amendments. Within forty-five (45) days of receipt of a request from Client for the amendment of an Individual's Protected Health Information or a record regarding an Individual's Protected Health Information or a record regarding an Individual contained in a Designated Record Set (for so long as the Protected Health Information is maintained in the Designated Record Set), Business Associate shall provide such information to Client for amendment and incorporate any such amendments in the Protected Health Information as required by 45 C.F.R. § 164.526. What constitutes a Designated Record Set shall be jointly determined by the parties. If Business Associate is unable to amend Protected Health Information within required time frames, Business Associate will notify Client so Client may request, in writing, an extension from the Individual.

(8) **Disputed Information. For PHI that is the subject of a disputed amendment, Business Associate shall take such actions as are specified by Client to identify in the Designated Record Set the disputed PHI, and shall append or otherwise link to the Designated Record Set the individual's request for amendment, Group Benefit Plan's denial of the request, the individual's statement of disagreement, if any, and Group Benefit Plan's rebuttal to the individual's statement of disagreement, if any (collectively, the "Disputed Information"). The Disputed Information, or an accurate summary thereof, shall accompany all subsequent disclosure by Business Associate of PHI that is the subject of a disputed amendment.**

(9) Provide Accounting. Within forty-five (45) days of notice by Client to Business Associate that it has received a request for an accounting of disclosures of Protected Health Information regarding an Individual during the six (6) years prior to the date on which the accounting was requested, Business Associate shall make available to Client such information as in Business Associate's possession and is required for Client to make the accounting required by 45 C.F.R. § 164.528. At a minimum, Business Associate shall provide Client with the following information: (i) the date of the disclosure; (ii) the name of the entity or person who received the Protected Health Information, and if known, the address of such entity or person, (iii) a brief description of the Protected Health Information disclosed; and (iv) a brief statement of the purpose of such disclose which includes a brief explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall within ten (10) days forward such request to Group Benefit Plan. It shall be Group Benefit Plan's responsibility to prepare and deliver any such accounting requested. Business Associate hereby agrees to implement an appropriate record keeping process to enable it to comply with the requirements of this Section.

(10) Access to Books and Records. Until the expiration of four (4) years after the furnishing of Business Associate services contemplated by this Agreement, and thereafter if and to the extent, and so long as, required by law, Business Associate shall make available to the Secretary, after five (5) days written request, this Agreement and all other books, documents and records relating to the use or disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Group Benefit Plan, to determine Group Benefit Plan's compliance with the HIPAA Privacy rule.

a. In all events, Business Associate shall immediately notify Client and Plan upon receipt by Business Associate of any such request for this Agreement and any other books, documents, and records, and shall provide Client and Plan with copies of any such materials.

b. Nothing contained in this Section is intended to or shall constitute a waiver of Client and Plan's or Business Associate's attorney-client privilege, the attorney work product doctrine, or any other statutory or other protection afforded clients of lawyers.

c. Client and Business Associate do not intend to make any private individual or entity or the Secretary, the United States Comptroller General, or any other governmental agencies or parties a

third-party beneficiary of this Agreement. The parties specifically intend that the Secretary shall not be a third-party beneficiary and shall have no contractual rights or powers to enforce this Agreement.

d. Any inspection of Business Associate's books and documents pursuant to this Section shall take place at a location selected by Business Associate that is reasonably convenient to the Secretary or Group Benefit Plan. In no event shall the Secretary or Client have unrestricted access to the books and records of Business Associate; it instead being the intent of the parties that the Secretary or Client may request information, and, if Business Associate determines that such information is required to be produced pursuant to this Agreement and is responsive, Business Associate will furnish the information to the Secretary or Client for review and inspection.

e. Notwithstanding anything herein to the contrary, Client acknowledges and agrees that Business Associate may store, analyze, access, and use de-identified information derived from Protected Health Information, provided none of such information contains Individually Identifiable Health Information, and further provided that any such use is then consistent with applicable law.

(11) **Disposition of PHI. The parties agree that the return or destruction of PHI received from, or created or received by Business Associate on behalf of, Client is not feasible and that such PHI must be retained by Business Associate for further audits. Business Associate will extend the protections provided by this Addendum to such PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI unfeasible.**

(12) **Requested Restrictions. Client will not provide to Business Associate any PHI that is subject to any arrangement permitted or required of Client that may impact in any manner the use or disclosure of PHI by Business Associate under this Addendum including, but not limited to, any restriction on the use or disclosure of PHI as provided in 45 C.F.R. § 164.522 and agreed to by Group Benefit Plan.**

(13) Implementation of Security Rule. Business Associate will implement administrative, physical and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI that it creates, receives, maintains, or transmits on behalf of Client as required by the Security Rule.

D. Client to Inform Business Associate of Privacy Practices and Restrictions

(1) Client shall provide Business Associate with the notice of privacy practices that Client and Plan produces in accordance with 45 C.F.R § 164.520, as well as any changes to such notice.

(2) Client shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses or disclosures, pursuant to 45 C.F.R. § 164.508.

(3) Client shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Client has agreed to in accordance with 45 C.F.R. § 164.522.

E. Breach. If Business Associate breaches a provision of this Article, related to disclosure of Protected Health Information, that is not curable within the time provided for elsewhere in this Agreement, the parties shall, in good faith, negotiate a reasonable cure period for Business Associate to remedy its breach. If such breach is not curable, the parties will negotiate in good faith for thirty (30) days to develop safeguards to ensure that a subsequent breach of this Article does not occur. If the parties are unable to cure the breach or develop acceptable safeguards following negotiations for such specified time, Client may terminate this Agreement in accordance with the termination provisions of this Agreement.

F. Termination and Return of Information. Upon the termination of this Agreement, Business Associate agrees to return or destroy all Protected Health Information received from, or created or received by, Business Associate on behalf of Group Benefit Plan. Business Associate agrees not to retain any copies of the Protected Health Information after the termination of this Agreement. If return or destruction of the Protected Health Information is not feasible, Business Associate agrees to extend the protections of this Agreement for as long as necessary to protect the Protected Health Information and to limit any further use or disclosure.

G. HIPAA Indemnity. In no event is or shall Business Associate be construed to be an indemnitor of compliance with the HIPAA Privacy Regulations, under the terms of this Agreement, or otherwise.

H. New Laws and Amendments. The parties agree to negotiate in good faith any modification to this Agreement that may be necessary or required to ensure consistency with amendments to and changes in applicable federal and state laws and regulations governing Protected Health Information, including without limitation regulations promulgated pursuant to HIPAA.

I. Conflict. Except as specifically set forth herein, all terms of the Agreement will continue in full force and effect. In the case of any conflict among the provisions of this Addendum and the Agreement, the terms of this Addendum will prevail.

J. Indemnification. The Client and Benefit & Risk Management Services agree to abide by all federal and state statute and regulations concerning the confidentiality and privacy of all information, in whatever form, exchanged among the parties pursuant to this Agreement, including privacy of Protected Health Information

IN WITNESSETH WHEREOF, the parties hereto have caused this Agreement to be executed, under seal, on their behalf by their officers or duly authorized representatives, as of the day and year first above written.

Sacramento City Unified School District

By: _____

Title: _____

Date: _____

Benefit & Risk Management Services (BRMS)

By: Martin A Schaefer

Title: Chief Executive Officer

Date: 6-20-11

BUSINESS ASSOCIATE ADDENDUM

BENEFIT & RISK MANAGEMENT SERVICES (BRMS) ("Covered Entity") and **Sacramento Unified School District** ("Business Associate") (jointly "the Parties") wish to incorporate the terms of this Addendum to comply with the requirements of: (i) the implementing regulations at 45 C.F.R Parts 160, 162, and 164 for the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") (*i.e.,* the HIPAA Privacy Rule, the HIPAA Security Standards, and the HIPAA Standards for Electronic Transactions (collectively referred to in this Addendum as "the HIPAA Regulations")), and (ii) the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the "HITECH Act") that are applicable to business associates, along with any guidance and/or regulations issued by the U.S. Department of Health and Human Services ("DHHS") as of September 2009. Covered Entity and Business Associate agree to incorporate into this Addendum any regulations issued by DHHS with respect to the HITECH Act that relate to the obligations of business associates and that are required to be (or should be) reflected in a business associate agreement. Business Associate recognizes and agrees that it is obligated by law to meet the applicable provisions of the HITECH Act.

DEFINITIONS

(a) "*Electronic PHI*" shall mean protected health information that is transmitted or maintained in any electronic media, as this term is defined in 45 C.F.R. § 160.103.

(b) *Limited Data Set*" shall mean protected health information that excludes the following direct identifiers of the individual or of relatives, employers, or household members of the individual:

(i) Names;
(ii) Postal address information, other than town or city, State, and zip code;
(iii) Telephone numbers;
(iv) Fax numbers;
(v) Electronic mail addresses;
(vi) Social security numbers;
(vii) Medical record numbers;
(viii) Health plan beneficiary numbers;
(ix) Account numbers;
(x) Certificate/license numbers;
(xi) Vehicle identifiers and serial numbers, including license plate numbers
(xii) Device identifiers and serial numbers;
(xiii) Web Universal Resource Locators (URLs);
(xiv) Internet Protocol (IP) address numbers;
(xv) Biometric identifiers, including finger and voice prints; and
(xvi) Full face photographic images and any comparable images.

(c) "*Protected Health Information*" or "*PHI*" shall mean information created or received by a health care provider, health plan, employer, or health care clearinghouse, that: (i) relates to the past, present, or future physical or mental health or condition of an individual, provision of health care to the individual, or the past, present, or future payment for provision of health care to the individual; (ii) identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the

individual; and (iii) is transmitted or maintained in an electronic medium, or in any other form or medium. The use of the term "Protected Health Information" or "PHI" in this Addendum shall mean both Electronic PHI and non-electronic PHI, unless another meaning is clearly specified.

(d) "*Security Incident*" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

(e) All other terms used in this Addendum shall have the meanings set forth in the applicable definitions under the HIPAA Regulations and/or the security and privacy provisions of the HITECH Act that are applicable to business associates along with any regulations issued by the DHHS.

GENERAL TERMS

(a) In the event of an inconsistency between the provisions of this Addendum and a mandatory term of the HIPAA Regulations (as these terms may be expressly amended from time to time by the DHHS or as a result of interpretations by DHHS, a court, or another regulatory agency with authority over the Parties), the interpretation of DHHS, such court or regulatory agency shall prevail. In the event of a conflict among the interpretations of these entities, the conflict shall be resolved in accordance with rules of precedence.

(b) Where provisions of this Addendum are different from those mandated by the HIPAA Regulations or the HITECH Act, but are nonetheless permitted by the Regulations or the Act, the provisions of this Addendum shall control.

(c) Except as expressly provided in the HIPAA Regulations, the HITECH Act, or this Addendum, this Addendum does not create any rights in third parties.

SPECIFIC REQUIREMENTS

(a) Privacy of Protected Health Information

(i) *Permitted Uses and Disclosures of PHI.* Business Associate agrees to create, receive, use, or disclose PHI only in a manner that is consistent with this Addendum or the HIPAA Privacy Rule and only in connection with providing the services to Covered Entity identified in the Agreement. Accordingly, in providing services to or for the Covered Entity, Business Associate, for example, will be permitted to use and disclose PHI for "treatment, payment, and health care operations" in accordance with the HIPAA Privacy Rule.

(1) Business Associate shall report to Covered Entity any use or disclosure of PHI that is not provided for in this Addendum.

(2) Business Associate shall maintain safeguards as necessary to ensure that PHI is not used or disclosed except as provided for by this Addendum.

(ii) *Business Associate Obligations.* As permitted by the HIPAA Privacy Rule, Business Associate also may use or disclose PHI received by the Business Associate in its capacity as a Business Associate to the Covered Entity for Business Associate's own operations if:

(1) the *use* relates to: (1) the proper management and administration of the Business Associate or to carry out legal responsibilities of the Business Associate, or (2) data aggregation services relating to the health care operations of the Covered Entity; or

(2) the *disclosure* of information received in such capacity will be made in connection with a function, responsibility, or services to be performed by the Business Associate, and

such disclosure is required by law or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidential and the person agrees to notify the Business Associate of any breaches of confidentiality.

(iii) *Minimum Necessary Standard and Creation of Limited Data Set.* Business Associate's use, disclosure, or request of PHI shall utilize a Limited Data Set if practicable. Otherwise, in performing the functions and activities as specified in the Agreement and this Addendum, Business Associate agrees to use, disclose, or request only the minimum necessary PHI to accomplish the intended purpose of the use, disclosure, or request.

(iv) *Access.* In accordance with 45 C.F.R. § 164.524 of the HIPAA Privacy Rule and, where applicable, in accordance with the HITECH Act, Business associate will make available to those individuals who are subjects of PHI, their PHI in Designated Record Sets by providing the PHI to Covered Entity who then will share the PHI with the individual), by forwarding the PHI directly to the individual, or by making the PHI available to such individual at a reasonable time and at a reasonable location. Business Associate shall make such information available in an electronic format where directed by the Covered Entity.

(v) *Disclosure Accounting.* Business Associate shall make available the information necessary to provide an accounting of disclosures of PHI as provided for in 45 C.F.R. § 164.528 of the HIPAA Privacy Rule, and where so required by the HITECH Act and/or any accompanying regulations, Business Associate shall make such information available directly to the individual. Business Associate further shall provide any additional information to the extent required by the HITECH Act and any accompanying regulations.

Business Associate is not required to record disclosure information or otherwise account for disclosures of PHI that this Addendum or the Agreement in writing permits or requires: (i) for the purpose of payment activities or health care operations (except where such recording or accounting is required by the HITECH Act, and as of the effective dates for this provision of the HITECH Act), (ii) to the individual who is the subject of the PHI disclosed, or to that individual's personal representative; (iii) to persons involved in that individual's health care or payment for health care; (iv) for notification for disaster relief purposes, (v) for national security or intelligence purposes, (vi) to law enforcement officials or correctional institutions regarding inmates; (vii) pursuant to an authorization; (viii) for disclosures of certain PHI made as part of a limited data set; and (ix) for certain incidental disclosures that may occur where reasonable safeguards have been implemented.

(vi) *Amendment.* Business Associate shall make available PHI for amendment and incorporate any amendment to PHI in accordance with 45 C.F.R. § 164.526 of the HIPAA privacy Rule.

(vii) *Right to Request Restrictions on the Disclosure of PHI and Confidential Communications.* If an individual submits a Request for Restriction or Request for Confidential Communications to the Business Associate, Business Associate and Covered Entity agree that Business Associate, on behalf of Covered Entity, will evaluate and respond to these requests according to Business Associate's own procedures for such requests.

(viii) *Return or Destruction of PHI.* Upon the termination or expiration of the Agreement or this Addendum, Business Associate agrees to return the PHI to Covered Entity, destroy the PHI (and retain no copies), or further protect the PHI if Business Associate determines that return or destruction is not feasible.

(ix) *Availability of Books and Records.* Business Associate shall make available to DHHS or its agents the Business Associate's internal practices, books, and records relating to the use and disclosure of PHI in connection with this Addendum.

(x) *Termination for Breach.*

(1) Business Associate agrees that Covered Entity shall have the right to terminate this Addendum or seek other remedies if Business Associate violates a material term of this Addendum.

(2) Covered Entity agrees that Business Associate shall have the right to terminate this Addendum or seek other remedies if Covered Entity violates a material term of this Addendum.

(b) Information and Security Standards

(i) Business Associate will develop, document, implement, maintain, and use appropriate administrative, technical, and physical safeguards to preserve the integrity, confidentiality, and availability of, and to prevent non-permitted use or disclosure of, PHI created or received for or from the Covered Entity.

(ii) Business Associate agrees that with respect to PHI, these safeguards, at a minimum, shall meet the requirements of the HIPAA Security Standards applicable to Business Associate.

(iii) More specifically, to comply with the HIPAA Security Standards for PHI, Business Associate agrees that it shall:

(1) Implement administrative, physical, and technical safeguards consistent with (and as required by) the HIPAA Security Standards that reasonably protect the confidentiality, integrity, and availability of PHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity. Business Associate shall develop and implement policies and procedures that meet the Security Standards documentation requirements as required by the HITECH Act.

(2) As also provided for in Section 4(d) below, ensure that any agent, including a subcontractor, to whom it provides such PHI agrees to implement reasonable and appropriate safeguards to protect it;

(3) Report to Covered Entity, Security Incidents of which Business Associate becomes aware that result in the unauthorized access, use, disclosure, modification, or destruction of the Covered Entity's PHI, (hereinafter referred to as "Successful Security Incidents"). Business Associate shall report Successful Security Incidents to Covered Entity as specified in Section 4(e);

(4) For any other Security Incidents that do not result in unauthorized access, use, disclosure, modification, or destruction of PHI (including, for purposes of example and not for purposes of limitation, pings on business Associate's firewall, port scans, attempts to log onto a system or enter a database with an invalid password or username, denial-of-service attacks that do not result in the system being taken off-line, or malware such as worms or viruses) (hereinafter "Unsuccessful Security Incidents"), Business Associate shall aggregate the data and, upon the Covered Entity's written request, report to the Covered Entity in accordance with the reporting requirements identified in Section 4(e);

(5) Take all commercially reasonable steps to mitigate, to the extent practicable, any harmful effect that is known to Business Associate resulting from a Security Incident;

(6) Permit termination of this Addendum if the Covered Entity determines that Business Associate has violated a material term of this Addendum with respect to Business Associate's security obligations and Business Associate is unable to cure the violation; and

(7) Upon Covered Entity's request, Business Associate will provide Covered Entity with access to and copies of documentation regarding Business Associate's safeguards for PHI.

(c) Compliance with HIPAA Transaction Standards

(i) *Application of HIPAA Transaction Standards.* Business Associate will conduct Standard Transactions consistent with 45 C.F.R. Part 162 for or on behalf of the Covered Entity to the extent such Standard Transactions are required in the course of Business Associate's performing services under the Agreement and this Addendum for the Covered Entity. As provided for in Section 4(d) below, Business Associate will require any agent or subcontractor involved with the conduct of such Standard Transactions to comply with each applicable requirement of 45 C.F.R. Part 162. Further, Business Associate will not enter into, or permit its agents or subcontractors to enter into, any trading partner agreement in connection with the conduct of Standard Transactions for or on behalf of the Covered Entity that:

(1) Changes the definition, data condition, or use of a data element or segment in a Standard Transaction;

(2) Adds any data element or segment to the maximum defined data set;

(3) Uses any code or data element that is marked "not used" in the Standard Transaction's implementation specification or is not in the Standard Transaction's implementation specification; or

(4) Changes the meaning or intent of the Standard Transaction's implementation specification.

(ii) *Specific Communications.* Business Associate, Plan Sponsor and Covered Entity recognize and agree that communications between the parties that are required to meet the Standards for Electronic Transactions will meet the Standards set by that regulation. Communications between Plan Sponsor and Business Associate, or between Plan Sponsor and the Covered Entity, do not need to comply with the HIPAA Standards for Electronic Transactions. Accordingly, unless agreed otherwise by the Parties in writing, all communications (if any) for purposes of "enrollment" as that term is defined in 45 C.F.R. Part 162, Subpart O or for "Health Covered Entity Premium Payment Data," as that term is defined in 45 C.F.R. Part 162, Subpart Q, shall be conducted between the Plan Sponsor and either Business Associate or the Covered Entity. For all such communications (and any other communications between Plan Sponsor and the Business Associate), Plan Sponsor shall use such forms, tape formats, or electronic formats as Business Associate may approve. Plan Sponsor will include all information reasonably required by Business Associate to affect such data exchanges or notifications.

(iii) *Communications Between the Business Associate and the Covered Entity.* All communications between the Business Associate and the Covered Entity that are required to meet the HIPAA

Standards for Electronic Transactions shall do so. For any other communications between the Business Associate and the Covered Entity, the Covered Entity shall use such forms, tape formats, or electronic formats as Business Associate may approve. The Covered Entity will include all information reasonably required by Business Associate to affect such data exchanges or notifications.

(d) Agents and Subcontractors. Business Associate shall include in all contracts with its agents or subcontractors, if such contracts involve the disclosure of PHI to the agents or subcontractors, the same restrictions and conditions on the use, disclosure, and security of such PHI that are set forth in this Addendum.

(e) Breach of Privacy or Security Obligations.

(i) *Notice and Reporting to Covered Entity.* Business Associate will notify and report to Covered Entity (in the manner and within the timeframes described below) any use or disclosure of PHI not permitted by this Addendum, by applicable law, or permitted in writing by Covered Entity.

(ii) *Notice to Covered Entity.* Business Associate will notify Covered Entity following discovery and without unreasonable delay but in no event later than ten (10) calendar days following discovery, any "Breach" of "Unsecured Protected Health Information" as these terms are defined by the HITECH Act and any implementing regulations. Business Associate shall cooperate with Covered Entity in investigating the Breach and in meeting the Covered Entity's obligations under the HITECH Act and any other security breach notification laws. Business Associate shall follow its notification to the Covered Entity with a report that meets the requirements outlined immediately below.

(iii) *Reporting to Covered Entity.*

(1) For Successful Security Incidents and any other use or disclosure of PHI that is not permitted by this Addendum, the Agreement, by applicable law, or without the prior written approval of the Covered Entity, Business Associate – without unreasonable delay and in no event later than thirty (30) days after Business Associate learns of such non-permitted use or disclosure – shall provide Covered Entity a report that will:

a. Identify (if known) each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been accessed, acquired, or disclosed during such Breach;

b. Identify the nature of the non-permitted access, use, or disclosure including the date of the incident and the date of discovery;

c. Identify the PHI accessed, used, or disclosed (*e.g.*, name; social security number; date of birth);

d. Identify who made the non-permitted access, use, or received the non-permitted disclosure;

e. Identify what corrective action Business Associate took or will take to prevent further non-permitted accesses, uses, or disclosures;

f. Identify what Business Associate did or will do to mitigate any deleterious effect of the non-permitted access, use, or disclosure; and

g. Provide such other information, including a written report, as the Covered Entity may reasonably request.

(2) For Unsuccessful Security Incidents, Business Associate shall provide Covered Entity, upon its written request, a report that (i)identifies the categories of Unsuccessful Security Incidents as described in Section 4(b)(iii)(4); (ii) indicates whether Business Associate believes its current defensive security measures are adequate to address all Unsuccessful Security Incidents, given the scope and nature of such attempts; and (iii) if the security measures are not adequate, the measures Business Associate will implement to address the security inadequacies.

(iv) *Termination for Breach*.

(1) Covered Entity and Business Associate each will have the right to terminate this Addendum if the other party has engaged in a pattern of activity or practice that constitutes a material breach or violation of Business Associate's or the Covered Entity's respective obligations regarding PHI under this Addendum and, on notice of such material breach or violation from the Covered Entity or Business Associate, fails to take reasonable steps to cure the material breach or end the violation.

(2) If Business Associate or the Covered Entity fail to cure the material breach or end the violation after the other party's notice, the Covered Entity or Business Associate (as applicable) may terminate this Addendum by providing Business Associate or the Covered Entity written notice of termination, stating the uncured material breach or violation that provides the basis for the termination and specifying the effective date of the termination. Such termination shall be effective 60 days from this termination notice.

(v) *Continuing Privacy and Security Obligations*. Business Associate's and the Covered Entity's obligation to protect the privacy and security of the PHI it created, received, maintained, or transmitted in connection with services to be provided under the Agreement and this Addendum will be continuous and survive termination, cancellation, expiration, or other conclusion of this Addendum or the Agreement. Business Associate's other obligations and rights, and the Covered Entity's obligations and rights upon termination, cancellation, expiration, or other conclusion of this Addendum, are those set forth in this Addendum and/or the Agreement.

IN WITNESSETH WHEREOF, the parties hereto have caused this Agreement to be executed, under seal, on their behalf by their officers or duly authorized representatives, as of the day and year first above written.

Benefit & Risk Management Services (BRMS)

Address: 80 Iron Point Road, Suite 200

Folsom, CA 95630

By: _____

Title: Chief Executive Officer

Date: 6·20·11

Sacramento Unified School District

Address: 5735 47th Avenue

Sacramento, CA 95824

By: _____

Title: _____

Date: _____

SA12-00058

AVENTA LEARNING
CONTENT LICENSE AND SERVICES AGREEMENT

This Content License and Services Agreement ("Agreement"), is made and entered into as of the 20th day of May, 2010 ("Effective Date") by and between:

KC Distance Learning, Inc. LLC d/b/a Aventa Learning, a Delaware corporation	Sacramento City Unified School District
650 Holladay Street Suite 1400 Portland, OR 97232 (hereinafter referred to as "Aventa")	5735 47th Ave. Sacramento, CA 95824 (hereinafter referred to as "Customer")

1.0 Ordering. Customer may from time to time order (i) Aventa licensed online educational courseware products, including all data, documentation, text, audio, video, graphics, animation, drawings, programming, icons, images, pictures and charts contained therein ("Content"), (ii) related hosting, teaching, training, content development and/or other services, as further described in Section 4.0 below (collectively the "Services"), and/or (iii) related textbook products or course material ("Products") by placing orders with Aventa. The terms of each such order will be set forth in Aventa's standard order form (each, an "Order Form"). Each Order Form will include a description of (a) the Content being licensed and/or Products being purchased, (b) the specific Services to be provided by Aventa on behalf of Customer, (c) the number of permitted individual active student users who are entitled to access and use the Content pursuant to this Agreement (each a "User"), (d) the authorized territory, if applicable ("Territory"), (e) the duration of Customer's right to use the Content and related Services (the "License Term"), (f) relevant pricing and payment terms and/or (g) other relevant order terms. This Agreement sets forth the terms that apply to each Order Form executed by Aventa and Customer in writing. Each Order Form is subject to the terms and conditions of this Agreement and is incorporated herein by reference. In the event of any conflict or inconsistency between the terms or conditions of this Agreement and any provisions in an Order Form, the conflicting or inconsistent provision in the Order Form will have no force or effect unless it constitutes an enforceable amendment meeting the requirements of Section 13.0 below. This Agreement does not obligate Customer to order any particular volume of Content, Services or Products.

2.0 Content; Delivery; License Grants and Restrictions.

2.1 ***Content Generally.*** The Content includes those educational products set forth on an Order Form, as further described on the Aventa website located at the URL <www.aventalearning.com> (the "Site") and within related documentation ("Documentation") provided by Aventa. Aventa may from time to time, in its sole discretion, deliver or otherwise make available to Customer certain updated Content ("Updates"), which such Updates shall be deemed Content for purpose of the Agreement. Customer acknowledges and agrees that certain Content may be designed to utilize separate textbook products or course materials and, unless such Products are purchased by Customer hereunder, Customer shall be responsible for procuring such materials.

2.2 ***Content Delivery.*** If Aventa will not host the Content within the Site (the "Hosting Services"), as set forth in the applicable Order Form, Aventa shall deliver the Content to Customer in accordance with Schedule A attached hereto, if applicable. If Aventa will provide related Hosting Services, as set forth in the applicable Order Form, Aventa shall deliver the Content to Customer in accordance with Schedule B attached hereto, if applicable.

2.3 ***License Grants.*** If Aventa will not provide related Hosting Services, as set forth in the applicable Order Form, Customer's use of the Content shall be subject to the license grants set forth in Schedule A attached hereto, if applicable. If Aventa will provide related Hosting Services, as set forth in the applicable Order Form, Customer's use of the Content shall be subject to the license grants set forth in Schedule B attached hereto, if applicable. For purposes of this Agreement, "Resources" shall include personnel actively providing services to Customer, including but not limited to employees, consultants, contractors and agents of Customer; provided that (i) any Resource that is not an employee of Customer must be bound by written terms and conditions with Customer that serve to protect Aventa in a manner no less protective than the terms and conditions of this Agreement and (ii) Customer shall be responsible for all acts and/or omissions of Resources and Users.

2.4 ***Additional License Restrictions.*** Prior to permitting the use of any Content related to a physical education or similar course, Customer agrees that it shall require all Users to enter into a written medical consent and release of liability waiver, the form of which shall be approved by Aventa. Except as otherwise expressly permitted under this Agreement, Customer agrees not to: (a) disassemble, reverse compile, reverse engineer or otherwise attempt to discover the source code of or trade secrets embodied in the Content or Site (or any portion thereof); (b) distribute, lend, rent, sell, transfer or grant sublicenses to, or otherwise make available the Content or Site (or any portion thereof) to third parties, including, but not limited to, making such Content

available (i) through resellers, OEMs, other distributors, or (ii) as an application service provider, service bureau, or rental source, unless expressly permitted in the Order Form; (c) embed or incorporate in any manner the Content (or any element thereof) into other applications of Customer or third parties; (d) create modifications to or derivative works of the Content or Site; (e) knowingly allow any Resource, User or individual or entity under the control of Customer to access Content or the Site without a valid license from Aventa for such access; (f) use or transmit the Content in violation of any applicable law, rule or regulation, including any export/import laws, (g) in any way access, use, or copy any portion of the Content or Site code (including the logic and/or architecture thereof and any trade secrets included therein) to directly or indirectly develop, promote, distribute, sell or support any product or service that is competitive with the Content or Site or (h) remove, obscure or alter any copyright notices or any name, logo, tagline or other designation of Aventa displayed on any portion of the Site or Content ("Aventa Marks"). Customer shall not permit any third party to perform any of the foregoing actions and shall be responsible for all damages and liabilities incurred as a result of such actions. The Software is a "commercial item," as that term is defined at 48 C.F.R. 2.101 (OCT 1995), and more specifically is "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (SEPT 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (JUNE 1995), the Content is provided to U.S. Government End Users (i) only as a commercial end item and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

2.5 ***Content Modifications.*** Customer will not under any circumstances modify the Content unless Customer and Aventa have executed a Content Modification Addendum.

3.0 Products. Following the effective date of each Order Form, subject to availability, Aventa will deliver to Customer all Products set forth in such Order Form in accordance with Aventa's then current Product shipping and delivery policies. Customer understands that Aventa may not be the manufacturer or publisher of certain Products purchased by Customer hereunder and the only warranties offered are those of such manufacturer or publisher. Aventa offers no warranties with respect to any third party Products provided hereunder.

4.0 Services. As set forth in each Order Form, Aventa shall provide the Services as follows:

4.1 ***Hosting Services; Teaching Services.*** If Aventa will provide related Hosting Services and/or Teaching Services, as set forth in the applicable Order Form, Aventa shall provide such Services in accordance with the terms set forth in Schedule B attached hereto, if applicable.

4.2 ***Other Services.*** Aventa will provide to Customer those specific (i) training services ("Training Services"), (ii) other Services specifically described in the set forth in the applicable Order Form.

4.5 ***Miscellaneous Services Terms.*** Any equipment owned, supplied, and utilized by Aventa in the performance of the Services herein will remain the sole title and property of Aventa. Any equipment or property owned by Customer that may be used in connection with the performance of Services will remain the sole title and property of Customer. All work product created by Aventa in the performance of Services, including products, reports, developments or other deliverables (in whole or in part), and any and all intellectual property rights therein shall be the sole and exclusive property of Aventa. Subject to any further limitations set forth in the applicable Order Form, Aventa hereby grants to Customer a limited, revocable, non-exclusive, non-transferable license, without sublicense rights, to make use of any deliverables provided by Aventa in connection with the Services to the extent necessary for Client's business purposes. If any Services are to be provided onsite at Customer's facilities, Customer shall provide adequate office space and shall procure all necessary rights and permissions under applicable law and Customer's policies and regulations. In addition, when travel is requested and/or approved by Customer in an Order Form, Aventa shall be reimbursed for actual, reasonable travel and travel related expenses, approved in advance and in writing by Customer, and incurred during the course of the Agreement fulfillment by Aventa.

5.0 Publicity. During the term of this Agreement, Customer hereby agrees that Aventa shall have the right, but not the obligation, to list Customer as a customer who uses the Content on the Site and in other materials promoting the Content. Aventa will remove Customer's name from any such list within thirty (30) days after any termination of this Agreement.

6.0 Proprietary Rights. As between the parties hereto, Aventa will retain all right, title and interest in and to the Aventa Marks, the Content, including all Updates, the Documentation, the Site and all Products manufactured or published by Aventa, including all intellectual property and proprietary rights incorporated into or related to the foregoing. All rights not expressly licensed by Aventa under this Agreement are reserved. Subject to the terms and conditions of this Agreement, Aventa hereby grants to Customer a limited, revocable, non-exclusive, non-transferable license, without sublicense rights, to use the Aventa Marks, solely in connection with the marketing, promotion and provision of the Content in the Territory. Customer will not directly or indirectly obtain or attempt to obtain at any time, any right, title or interest by registration or otherwise in or to the Aventa Marks. Customer acknowledges that the goodwill associated with the Aventa Marks belongs exclusively to Aventa and,

upon request, Customer will modify or cease its use of any Aventa Marks.

7.0 Warranties and Disclaimer.

7.1 ***Warranties.*** Aventa represents and warrants that all Services will be performed in a diligent and workmanlike manner in accordance with industry standards. In the event of any breach of the foregoing warranty, Aventa shall, as its sole liability and Customer's sole remedy, re-perform such services at no additional cost to Customer. Each party hereby represents and warrants to the other party that (i) it has the power and authority to enter into this Agreement and is permitted by applicable law and regulations to enter into this Agreement, (ii) it will comply with all applicable laws in the performance of its obligations under this Agreement, including without limitation applicable federal and state rules regarding student records, privacy, commercial use of student information and other similar administrative rules and regulations (i.e., the Family Educational Rights and Privacy Act (FERPA)), and (iii) it is not subject to any other agreement that would conflict with its ability to perform its obligations under this Agreement.

7.2 ***Disclaimers.*** THE EXPRESS WARRANTIES IN SECTION 7.1 ARE THE EXCLUSIVE WARRANTIES OFFERED BY AVENTA AND ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY, QUIET ENJOYMENT, TITLE, MERCHANTABILITY AND THOSE THAT ARISE FROM ANY COURSE OF DEALING OR COURSE OF PERFORMANCE ARE HEREBY DISCLAIMED. AVENTA DOES NOT WARRANT THAT USE THE SITE OR CONTENT WILL BE UNINTERRUPTED OR ERROR-FREE, THAT ERRORS WILL BE CORRECTED OR THAT IT WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

8.0 Indemnification. Aventa will defend at its own expense any action against Customer brought by a third party to the extent that the action is based upon a claim that the Content infringes any U.S. copyrights or misappropriates any trade secrets recognized as such under the Uniform Trade Secrets Act and Aventa will pay those costs and damages finally awarded against Customer in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. Notwithstanding the foregoing, Aventa will have no obligation under this Section 7.0 or otherwise with respect to any infringement claim based upon (w) any unauthorized use, reproduction, or distribution of the Content by Customer or any Resource or User, (x) any use of the Content in combination with other products, equipment, software, or data not supplied by Aventa, (y) continued use of other than the then-current release of the Content, or (z) any modification of the Content by Customer or any person other than Aventa or its authorized agents or contractors. If the Content becomes, or in Aventa's opinion is likely to become, the subject of an infringement claim, Aventa may, at its option and expense, either (a) procure for Customer the right to continue exercising the rights licensed to Customer in this Agreement, or (b) replace or modify the Content so that it becomes non-infringing and remains functionally equivalent. If Aventa is not able to achieve either of the two (2) foregoing options within thirty (30) days, Aventa may refund to Customer any applicable prepaid Fees in which case this Agreement will automatically terminate. This Section 7.0 states Aventa's entire liability and Customer's sole and exclusive remedy for infringement claims and actions. **CUSTOMER WILL DEFEND AT ITS OWN EXPENSE ANY ACTION AGAINST AVENTA BROUGHT BY A THIRD PARTY TO THE EXTENT THAT THE ACTION IS BASED UPON A CLAIM THAT ARISES FROM OR RELATES TO (I) CUSTOMER'S BREACH OF ANY REPRESENTATION OR WARRANTY SET FORTH IN THIS AGREEMENT; (II) CUSTOMER MODIFICATIONS TO THE CONTENT OR (II) CUSTOMER'S NEGLIGENT OR WILLFUL ACTS OR OMISSIONS.** Aventa will pay those costs and damages finally awarded against Customer in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on the indemnified party notifying the indemnifying party promptly in writing of such action, the indemnified party giving the indemnifying party sole control of the defense thereof and any related settlement negotiations, and the indemnified party cooperating and, at the indemnifying party's reasonable request and expense, assisting in such defense. Notwithstanding the foregoing, the indemnifying party's rights under this subsection are contingent on its agreement that it will not settle any claim without the indemnified party's prior written consent unless that settlement includes a full and final release of all claims against the indemnified party and does not impose any obligations on the indemnified party.

9.0 Limitations on Liability. IN NO EVENT SHALL AVENTA BE LIABLE TO CUSTOMER, RESOURCES, USERS OR TO ANY THIRD PARTY, WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR SPECIAL DAMAGES (INCLUDING ANY DAMAGE TO BUSINESS REPUTATION, LOST PROFITS OR LOST DATA), WHETHER FORESEEABLE OR NOT AND WHETHER AVENTA IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. AVENTA'S AGGREGATE CUMULATIVE LIABILITY TO CUSTOMER, RESOURCES, USERS AND THIRD PARTIES, IN CONNECTION WITH THE CONTENT, PRODUCTS, AND AVENTA MARKS PROVIDED HEREUNDER SHALL NOT EXCEED, IN THE AGGREGATE AND REGARDLESS OF WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE, THE FEES (AS DEFINED IN SECTION 12.1 BELOW) ACTUALLY PAID TO AVENTA BY CUSTOMER UNDER THE APPLICABLE ORDER FORM AS OF THE DATE OF THAT SUCH LIABILITY FIRST ARISES.

10.0 Confidentiality.

10.1 ***Protection of Confidential Information.*** "Confidential Information" means information that pertains to Aventa's business, including, without limitation, technical, marketing, financial, employee, planning, product roadmaps, performance results, pricing, and other confidential or proprietary information. Confidential Information will be designated and/or marked as confidential when disclosed, provided that any information that Customer knew or should have known, under the circumstances, was considered confidential or proprietary by Aventa, will be considered Confidential Information even if not designated or marked as such. Customer shall preserve the confidentiality of the Confidential Information and treat such Confidential Information with at least a reasonable standard of care. Customer will use the Confidential Information only to exercise rights and perform obligations under this Agreement. Confidential Information will be disclosed only to those employees and contractors of Customer with a need to know such information.

10.2 ***Exclusions.*** Customer shall not be liable to Aventa for the release of Confidential Information if such information: (a) was known to Customer on or before Effective Date without restriction as to use or disclosure; (b) was in the public domain on or before the Effective Date; (c) came into the public domain after the Effective Date through no fault of Customer; (d) was independently developed solely by the employees of Customer who have not had access to Confidential Information; or (e) is divulged pursuant to any legal proceeding or otherwise required by law, subject to Customer giving all reasonable prior notice to Aventa to allow it to seek protective or other court orders and provided that Customer uses best efforts to make such disclosure under conditions of confidentiality.

11.0 Term and Termination.

11.1 ***Term.*** This Agreement shall continue in effect until terminated as set forth herein.

11.2 ***Termination.*** This Agreement may be terminated by either party if the other party materially breaches this Agreement and does not cure such breach within thirty (30) days after receiving written notice thereof from the non-breaching party (except that such cure period shall be five (5) days for breaches of Sections 2.0 or 10.0). Additionally, this Agreement may terminated for convenience by either party by providing thirty (30) days prior written notice to the other party. This Agreement will automatically terminate one year from the effective date unless Customer provides written notice of their intent to renew for subsequent one (1) year periods. This Agreement will be deemed automatically terminated (i) with respect to those Users for whom the applicable Fee has not been paid when due and Customer has not remedied such failure within five (5) days after notice is provided by Aventa; and (ii) upon expiration of the applicable License Term set forth in the Order Form.

11.3 ***Effect.*** Upon any termination of this Agreement, without prejudice to any other rights or remedies which the parties may have, (a) all rights licensed and obligations required hereunder shall immediately cease subject to the following sentence, (b) Customer will delete and destroy all Content immediately and (c) Customer shall pay to Aventa the full amount of any outstanding Fees due hereunder. Sections 2.4, 6, 7.2 and 8.0 through 13.0 shall survive termination of this Agreement for any reason. So long as (a) the Agreement is not terminated for material breach or nonpayment and (b) Customer remains in compliance with Sections 2.4 and 6.0, any perpetual license grant set forth in the Order Form will survive termination of this Agreement.

12.0 Fees and Payment; Reporting; Audit Rights.

12.1 ***Fees Generally.*** Subject to the terms and conditions below, all fees for the Content, Services and/or Products to be provided hereunder (collectively, the "Fees") shall be as set forth on the applicable Order Form and will apply for the License Term stated therein. Subject to the foregoing, Aventa retains sole discretion as to the Fees it charges.

12.2 ***Payment Terms.*** Customer will pay Aventa all Fees described in each applicable Order Form or invoice within thirty (30) days of issuance. All payments shall be made in currently available funds payable at either the address set forth on the invoice or such other address as Aventa may specify in writing. All Fees shall be in the currency of the United States and specifically exclude (and Customer is separately responsible for) any and all applicable sales, use and other taxes, (other than taxes based on Aventa's income). Any amounts due under the Agreement which are not paid within thirty (30) days of their due date shall be subject to a late payment charge of one and one half percent (1-1/2%) and shall thereafter bear interest at a rate of eighteen percent (18%) per annum until paid or the highest amount permitted by applicable law. Each party is responsible for its own expenses under this Agreement.

12.3 ***Reporting Process.*** In connection with the license grants set forth in Section 2.2 above, (i) Aventa may monitor actual usage of the Site and Content by Resources and Users and (ii) at periodic intervals designated by Aventa in accordance with its then current policies (i.e., at or near the mid point of each applicable semester or term), may request that Customer deliver to

Aventa in writing a summary of the actual number of Users that are currently enrolled and using the Content in connection with each Purchase Order (collectively, the "Reporting Process"). Unless otherwise set forth in the applicable Order Form, all Content license Fees shall be payable in accordance with the number of Users determined pursuant to the Reporting Process. Aventa may, in accordance with Aventa's then current refund policy, refund a portion of such Fees for students that withdraw from the applicable course.

12.4 ***Audit Rights.*** Customer shall maintain books and records in connection with its use of the Site and Content for the term of this Agreement and for at least three (3) years after the date this Agreement terminates or expires. Aventa or its representatives may audit the relevant books and records of Customer during the term of this Agreement, and for three (3) years after the expiration of this Agreement to ensure compliance with the Reporting Process and other terms of this Agreement. Any such audit shall be conducted during regular business hours at Customer's facilities and shall not unreasonably interfere with Customer's business activities. Audits shall be conducted no more than once annually. If an audit reveals that Customer has underpaid fees due to Aventa, all such fees shall be paid immediately, together with interest at the rate of prime plus one percent (1%); and in the event such underpayment is in excess of five percent (5%) of the total owed to Aventa for any given audit period, then Customer shall, in addition, reimburse to Aventa the reasonable costs of conducting the audit.

13.0 Miscellaneous. The parties are independent contractors with respect to each other, and nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership, agency relationship or a joint venture between the parties. Each party will be excused from any delay or failure in performance hereunder, other than the payment of money, caused by reason of any occurrence or contingency beyond its reasonable control, including but not limited to acts of God, earthquake, labor disputes and strikes, riots, war and governmental requirements. The obligations and rights of the party so excused will be extended on a day-to-day basis for the period of time equal to that of the underlying cause of the delay. This Agreement controls the actions of all party representatives, officers, agents, employees and associated individuals. The terms of this Agreement shall be binding on the parties, and all successors to the foregoing who take their rights hereunder. Customer will not assign, transfer or delegate its rights or obligations under this Agreement (in whole or in part) without Aventa's prior written consent. Any attempted assignment, transfer or delegation in violation of the foregoing shall be null and void. All modifications to or waivers of any terms of this Agreement must be in a writing that is signed by the parties hereto and expressly references this Agreement. This Agreement shall be governed by the laws of the State of California, without regard to California conflict of laws rules. The exclusive venue and jurisdiction for any and all disputes, claims and controversies arising from or relating to this Agreement shall be the state or federal courts located in Sacramento, California. Each party waives any objection (on the grounds of lack of jurisdiction, forum non conveniens or otherwise) to the exercise of such jurisdiction over it by any such courts. In the event that any provision of this Agreement conflicts with governing law or if any provision is held to be null, void or otherwise ineffective or invalid by a court of competent jurisdiction, (a) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and (b) the remaining terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party. This Agreement together with the Order Forms executed hereunder and all expressly referenced documents constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements or communications, including without limitation any Site Terms of Service. The terms on any purchase order or similar document submitted by Customer to Aventa will have no effect and are hereby rejected. All notices, consents and approvals under this Agreement must be delivered in writing by courier, by facsimile, or by certified or registered mail, (postage prepaid and return receipt requested) to the other party at the address set forth on at the beginning of this Agreement and are deemed delivered when received.

The parties have executed Agreement as of the Effective Date.

KC Distance Learning, Inc. d/b/a Aventa Learning

By: _____

Name: John Olsen

Title: Executive Vice President

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

By: _____ 8/13/10

Name: Patricia A. Hagemeyer

Title: Chief Business Officer

Board approved July 22, 2010

Schedule A

Content Delivery (Without Related Hosting or Teaching Services)

Following the effective date of each Order Form, Aventa will deliver or otherwise make available to Customer via tangible media (i.e., CD or DVD) or electronic delivery methods all applicable Content. The parties acknowledge and agree that the Content is designed for use within Customer's learning management system software ("LMS") and Customer agrees that (i) it is solely responsible for obtaining all necessary rights in and to, and the maintenance of, any such LMS, (ii) Aventa shall not be responsible for the hosting of or any issues related to such LMS, including without limitation the interoperability of any Content with such LMS, and (iii) the Content may be designed to utilize separate textbook products or course materials and, unless such Products are purchased by Customer hereunder, Customer shall be responsible for procuring such materials. The parties agree that in connection with any electronic delivery of Content, Customer shall cooperate with Aventa and provide all necessary assistance to facilitate Aventa's access to Customer's LMS.

License Grants

Subject to the terms of this Agreement, within the Territory, if applicable, and during the License Term, Customer is granted a limited, revocable, non-exclusive, non-transferable license, without sublicense rights, to (a) permit a reasonable number of Resources (as defined below) to access and use the Content within Customer's LMS solely for Customer's own business purposes, including the provision of educational services to Users, (b) permit the authorized number of Users to access and use the Content within Customer's LMS solely in connection with such Users' enrollment in Customer's educational programs and (c) make up to two archival copies of the Content solely for backup purposes as permitted by 17 U.S.C. § 117.

Schedule B

Content Delivery via Hosting Services

Following the effective date of each Order Form and during the License Term, Aventa will be responsible for the set-up, configuration and hosting of the applicable Content within the Site, including obtaining and maintaining all physical equipment and/or software necessary to perform such services. Customer acknowledges and agrees that, subject to the license rights set forth below, it has no right to and specifically disclaims any possessory, leasehold or other real property interest in the physical equipment and software utilized to set-up and maintain the Content. Aventa may delegate its obligations to host the Content to its third party hosting provider. Customer, Resources and Users will be responsible for all necessary computer hardware, software, modems, connections to the Internet and other items that are needed for accessing the Content via the Site, and all costs associated with such access.

License Grants

Subject to the terms of this Agreement, within the Territory, if applicable, and during the License Term, Customer is granted a limited, revocable, non-exclusive, non-transferable license, without sublicense rights, to (a) permit a reasonable number of Resources (as defined below) to access and use the Content within the Site solely for Customer's own business purposes, including the provision of educational services to Users, (b) permit the authorized number of Users to access and use the Content within the Site solely in connection with such Users' enrollment in Customer's educational programs and (c) use and make a reasonable number of copies of the Documentation.

Site Use Policies

Customer, Resources and Users will comply at all times with all applicable laws and regulations with respect to the exercise of rights hereunder. Customer acknowledges that Aventa exercises no control whatsoever over any content made available by Users through the Content or Site ("User Content") and that it is Customer's sole responsibility to ensure that the information it transmits and receives within the Site complies with all applicable laws and regulations. Customer, Resources and all Users shall comply with the terms and conditions of the Terms of Use pertaining to the use of Content and Site, as such terms are set forth within the Site. Such policies are incorporated herein by reference and may be amended from time to time. Each Resource or User may be assigned a unique user identification name and password for access to and use of the Site and Content ("User ID"). Customer shall be responsible for ensuring the security and confidentiality of all User IDs which are deemed Confidential Information (as defined below). Customer acknowledges that it will be solely and fully responsible for all liabilities incurred through use (permitted or unpermitted) of any User ID. Customer acknowledges that User Content shall be publicly accessible and viewable within the Site. Aventa shall not be liable for protection or privacy of any such User Content.

Hosting Services and Teaching Services

If set forth in the applicable Order Form, Aventa will, during the License Term:

(a) use commercially reasonable efforts to host the Content within the Site and maintain operation of the Site 24-hours per day, 365-days per year, subject to downtime for repairs, upgrades or routine maintenance; provided that Aventa will use commercially reasonable efforts to minimize the impact of such operations. Customer may report to Aventa any errors or other issues with the Site or Content via telephone and/or email in accordance with Aventa's then current support policy and Aventa shall use commercially reasonable efforts to correct any such errors; and

(b) provide to Customer and applicable Users those instructional services deemed necessary by Aventa in connection with the related Content and online educational course, as further described on the Site (the "Teaching Services"). All Teaching Services will be performed by instructors and provided online within the Site in accordance with the Documentation.

AVENTA LEARNING
ORDER FORM

This Order Form (this "Order"), dated as of August 16, 2010 (the "Order Effective Date"), is between KC Distance Learning LLC d/b/a Aventa Learning, a Delaware corporation located at 2300 Corporate Park Drive, Herndon, VA 20171 ("Aventa"), and Sacramento City Unified School District, a[n] California public school located at 5735 47th Ave., Sacramento, CA 95824 ("Customer"). This Order is incorporated into, forms a part of, and is in all respects subject to the terms of the written Content License and Services Agreement, between Aventa and Customer (the "Agreement"). All capitalized terms that are not defined in this Order will have the meanings assigned to those terms in the Agreement.

1. **Description of Content.** Aventa will provide the following Content under this Order:

Access to original credit and credit recovery catalogs
Per Enrollment, Content, Hosting, and Instruction

The Aventa curriculum catalog available to Customer shall not include any learning object based course with enhanced assessment and interactivity.

2. **Scope of Content License.** Customer may utilize the Content set forth in Section 1 above in accordance with the following licensing scheme by up to the number of Users indicated:

Licensing Scheme.

Number of Authorized Users: *Authorized Users are the total number for which Aventa receives payment in full as set forth below.*

Territory (if applicable): *Students served by Sacramento City Unified School District, CA*

License Term. *Select one:*

☐ Perpetual License (Not applicable if related Hosting Services will be provided.)

☒ Subscription License (Per Enrollment): *August 16, 2010 through August 15, 2011(The Subscription License term will automatically renew for annual renewal term(s) at the conclusion of the initial term, subject to payment.)*

3. **Description of Services.** Aventa will provide the following Services under this Order:

☒ Hosting Services ☒ Teaching Services

Term (if other than License Term): N/A, 201__ through N/A, 201__

☒ Training Services: *Mentor training, 1 day onsite*

4. **Description of Products.** Aventa will provide the following Products under this Order:

Original Credit and Credit Recovery courses. Complete course lists found at http://aventalearning.com/aventa-courses

5. **Fees.** For the Content, Services and/or Products provided under this Order, Customer shall pay to Aventa the following Fees:

Middle School Annual User Seats:
$9,000 for 30 Middle School Annual User Seats. "Middle School Annual User Seat" means a single Student enrolled in up to two Online Courses (0.5 credit each). Student may access up to two Middle School courses at one time. If the student is dropped, that seat is then available for another student. Customer may at its option purchase additional Middle School Annual User Seats for$300 each by submitting a purchase order to Aventa indicating the number of user seats purchased. The term shall be one year from the date of the purchase order.

High School Annual User Seats:
$137,500 for 250 High School Annual User Seats. "High School Annual User Seats" means a single Student enrolled in any

number of Online Courses (0.5 credit each). Student may choose from any high school or credit recovery online course except the advanced placement series. If the student is dropped from the program, that seat is then available for another student. Customer may at its option purchase additional annual user seats for$550 each by submitting a purchase order to Aventa indicating the number of user seats purchased. The term shall be one year from the date of the purchase order.

Credit Recovery Online Courses:
$140,800 for 80 blocks of 10 Concurrent Annual User Seats. "Concurrent User Seat" means a Student enrolled in an Online Course (0.5 credit). Once a student is dropped or has completed the course, that seat is then available for another student. Customer may at its option purchase additional blocks for$1,760 each by submitting a purchase order to Aventa indicating the number of Blocks purchased. The term shall be one year from the date of the purchase order.

$2,500 for 1 day onsite mentor training session

Optional, Subscription License (Per Enrollment):

AP Online Courses	*$290.00 / Course Seat (Includes Content, Hosting, and Instruction)*
Online Courses	*$263.00 / Course Seat (Includes Content, Hosting, and Instruction)*
Online Instruction for Middle and High School Courses (Excluding Advanced Placement, Elective and Technology Courses)	*$150.00 / per 0.5 credit course*
Online Instruction for Elective and Technology Courses	*$125.00 /per 0.5 credit course*

6. **Invoice and Payment Schedule.** Aventa will invoice Customer for the Fees in accordance with the following payment schedule:

Middle School, High School, and Credit Recovery Annual User Seats:
Payment is due in full at the start of the program.

Subscription License (Per Enrollment):
Enrollments under the subscription license model will be invoiced on a monthly basis. Customer will pay Aventa in accordance with Section 12 of the Agreement.

Refunds. *KCDL provides a 30-day grace period for instructional fees. If a student withdraws within 14 days from when the student enrolls, KCDL will refund 100% of any instructional fees. If a student withdraws within 30 days from when the student enrolls, KCDL will refund 50% of any instructional fees. This withdrawal must be received in writing by KCDL by fax or email before the grace period ends. There are no refunds on products other than instructional fees once an enrollment is made.*

KC DISTANCE LEARNING, ~~INC.~~ LLC d/b/a AVENTA LEARNING

By: _____

Printed Name: John Olsen

Title: Executive Vice President

Date: 8/20/10

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

By: _____

Printed Name: Patricia A. Hagemeyer

Title: Chief Business Officer

Date: 8/17/10

BOARD: July 22, 2010

SA12-00059

Sacramento City Unified School District

SERVICES AGREEMENT

Date: July 1, 2011 **Place:** Sacramento, California

Parties: Sacramento City Unified School District, a political subdivision of the State of California, (hereinafter referred to as the "District"); and LAARNI GALLARDO, RN., B.S.N. (hereinafter referred to as "Contractor").

Recitals:

A. The District is a public school district in the County of Sacramento, State of California, and has its administrative offices located at the Serna Center, 5735 47th Avenue, Sacramento, CA 95824.

B. The District desires to engage the services of the Contractor and to have said Contractor render services on the terms and conditions provided in this Agreement.

C. California Government Code Section 53060 authorizes a public school district to contract with and employ any persons to furnish to the District, services and advice in financial, economic, accounting, engineering, legal, or administrative matters if such persons are specially trained, experienced and competent to perform the required services, provided such contract is approved or ratified by the governing board of the school district. Said section further authorizes the District to pay from any available funds such compensation to such persons as it deems proper for the services rendered, as set forth in the contract.

D. The Contractor is specially trained, experienced and competent to perform the services required by the District, and such services are needed on a limited basis.

In consideration of the mutual promises contained herein, the parties agree as follows:

ARTICLE 1. SERVICES.

The Contractor hereby agrees to provide to the District the services as described below:

A. To act as Director to the Certificated Nursing Assistant (C.N.A.) and Deputy Director Vocational Nursing (VN) Program.

B. Hold a current California active license as a registered nurse, hold a baccalaureate degree from an accredited school, have a minimum of three years as a registered nurse (one year shall be in clinical and teaching supervision, and have coursework from an accredited instruction in administration, teaching and curriculum.

C. Work with administration and staff to develop nursing programs under his/her direction, including curriculum, screening and selection criteria and evaluation methodologies.

D. Ensure that implemented curriculum meets with the California Board of Nursing regulatory standards.

E. Assist with recruitment and training of associated staff for the C.N.A./VN programs.

F. Secure and coordinate with host sites for clinical training for the C.N.A./VN programs.

G. Have clear TB and fingerprint results on file in the District Office prior to working with staff and students.

H. Prepare a monthly invoice that corresponds with hours worked.

ARTICLE 2. TERM.

This Agreement shall commence on 07/01/2011 and continue through 06/30/2012 unless sooner terminated, as set forth in Article 10 of this Agreement, provided all services under this Agreement are performed in a satisfactory manner. The determination of a satisfactory performance shall be in the sole judgment and discretion of the District. The term may be extended by mutual consent of the parties on the same terms and conditions by a mutually executed addendum.

ARTICLE 3. PAYMENT.

District agrees to pay Contractor for services satisfactorily rendered pursuant to this Agreement as follows:

Fee Rate: $55 per hour per day of services as may be requested by District, not to exceed a maximum of 120 hours//month of service. Total fee shall not exceed $79,200.

Payment shall be made within 30 days upon submission of periodic invoice(s) to the attention of Charles A. Jones Career and Education Center, Sacramento City Unified School District, P. O. Box 246870, Sacramento, California 95824-6870.

ARTICLE 4. EQUIPMENT AND FACILITIES.

District will provide Contractor with access to all needed records and materials during normal business hours upon reasonable notice. Contractor will provide all other necessary equipment and facilities to render the services pursuant to this Agreement.

ARTICLE 5. WORKS FOR HIRE/COPYRIGHT/TRADEMARK/PATENT

The Contractor understands and agrees that all matters specifically produced under this Agreement shall be works for hire and shall become the sole property of the District and cannot be used without the District's express written permission. The District shall have the right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. The Contractor consents to the use of the Contractor's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose in any medium.

ARTICLE 6. INDEPENDENT CONTRACTOR.

The relationship between the parties under this Agreement shall be one of independent contractor. The Contractor and all of their employees shall not be employees or agents of the District and are not entitled to participate in any District pension plans, retirement, health and welfare programs, or any similar programs or benefits, as a result of this Agreement.

The Contractor and their employees or agents rendering services under this agreement shall not be employees of the District for federal or state tax purposes, or for any other purpose. The Contractor acknowledges and agrees that it is the sole responsibility of the Contractor to report as income its compensation from the District and to make the requisite tax filings and payments to the appropriate federal, state, and/or local tax authorities. No part of the Contractor's compensation shall be subject to withholding by the District for the payment of social security, unemployment, or disability insurance, or any other similar state or federal tax obligation.

The Contractor agrees to defend, indemnify and hold the District harmless from any and all claims, losses, liabilities, or damages arising from any contention by a third party that an employer-employee relationship exists by reason of this Agreement.

The District assumes no liability for workers' compensation or liability for loss, damage or injury to persons or property during or relating to the performance of services under this Agreement.

ARTICLE 7. FINGERPRINTING REQUIREMENTS.

Education Code Section 45125.1 states that if employees of any contractor providing school site administrative or similar services may have any contact with any pupils, those employees shall be fingerprinted by the Department of Justice (DOJ) before entering the school site to determine that they have not been convicted of a serious or violent felony. If the District determines that more than limited contact with students will occur during the performance of these services, Contractor will not perform services until all employees providing services have been fingerprinted by the DOJ and DOJ fingerprinting clearance certification has been provided to the District.

District has determined that services performed under this Agreement will result in contact with pupils. Contractor shall obtain fingerprinting clearance for *all* employees before services can begin. Contractor will provide a complete list to the District of all employees cleared by the DOJ who will provide services under this Agreement. Failure to provide such written certification before services begin, or within thirty days after execution of this Agreement, whichever occurs first, will result in immediate termination.

ARTICLE 8. MUTUAL INDEMNIFICATION.

Each of the Parties shall defend, indemnify and hold harmless the other Party, its officers, agents and employees from any and all claims, liabilities and costs, for any damages, sickness, death, or injury to person(s) or property, including payment of reasonable attorney's fees, and including without limitation all consequential damages, from any cause whatsoever, arising directly or indirectly from or connected with the operations or services performed under this Agreement, caused in whole or in part by the negligent or intentional acts or omissions of the Parties or its agents, employees or subcontractors.

It is the intention of the Parties, where fault is determined to have been contributory, principles of comparative fault will be followed and each Party shall bear the proportionate cost of any damage attributable to fault of that Party. It is further understood and agreed that such indemnification will survive the termination of this Agreement.

ARTICLE 9. INSURANCE.

Prior to commencement of services and during the life of this Agreement, Contractor shall provide the District with a copy of its policy evidencing its comprehensive general liability insurance coverage in a sum not less than $1,000,000 per occurrence. Contractor will also provide a written endorsement to such policy naming District as an additional insured, and such endorsement shall also state "Such insurance as is afforded by this policy shall be primary, and any insurance carried by District shall be excess and noncontributory." If insurance is not kept in force during the entire term of the Agreement, District may procure the necessary insurance and pay the premium therefore, and the premium shall be paid by the Contractor to the District.

ARTICLE 10. TERMINATION.

The District may terminate this Agreement without cause upon giving the Contractor thirty days written notice. Notice shall be deemed given when received by Contractor, or no later than three days after the day of mailing, whichever is sooner.

The District may terminate this Agreement with cause upon written notice of intention to terminate for cause. A Termination for Cause shall include: (a) material violation of this Agreement by the Contractor; (b) any act by the Contractor exposing the District to liability to others for personal injury or property damage; or (c) the Contractor is adjudged a bankrupt; Contractor makes a general assignment for the benefit of creditors, or a receiver is appointed on account of the Contractor's insolvency.

Ten (10) calendar days after service of such notice, the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, or this Agreement shall cease and terminate. In the event of such termination, the District may secure the required services from another contractor. If the cost to the District exceeds the cost of providing the service pursuant to this Agreement, the excess cost shall be charged to and collected from the Contractor. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to the District. Written notice by the District shall be deemed given when received by the other party or no later than three days after the day of mailing, whichever is sooner.

ARTICLE 11. ASSIGNMENT.

This Agreement is for personal services to be performed by the Contractor. Neither this Agreement nor any duties or obligations to be performed under this Agreement shall be assigned without the prior written consent of the District, which shall not be unreasonably withheld. In the event of an assignment to which the District has consented, the assignee or his/her or its legal representative shall agree in writing with the District to personally assume, perform, and be bound by the covenants, obligations, and agreements contained in this Agreement.

ARTICLE 12. NOTICES.

Sacramento City Unified School District

Any notices, requests, demand or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, or on the day after dispatching by Federal Express or another overnight delivery service, and properly addressed as follows:

District:
Sacramento City Unified School District
PO Box 246870
Sacramento CA 95824-6870
Attn: Nancy Compton, Principal

Contractor:
Laarni Gallardo
Tax ID:562-87-7369
24 Press Court
Elk Grove, CA 95758

ARTICLE 13. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between the parties and supersedes all prior understanding between them with respect to the subject matter of this Agreement. There are no promises, terms, conditions or obligations, oral or written, between or among the parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations under this Agreement be waived, except by written instrument signed by the party to be otherwise expressly permitted in this Agreement.

ARTICLE 14. CONFLICT OF INTEREST.

The Contractor shall abide by and be subject to all applicable District policies, regulations, statutes or other laws regarding conflict of interest. Contractor shall not hire any officer or employee of the District to perform any service covered by this Agreement. If the work is to be performed in connection with a Federal contract or grant, Contractor shall not hire any employee of the United States government to perform any service covered by this Agreement.

Contractor affirms to the best of their knowledge, there exists no actual or potential conflict of interest between Contractor's family, business or financial interest and the services provided under this Agreement. In the event of a change in either private interest or services under this Agreement, any question regarding possible conflict of interest which may arise as a result of such change will be brought to the District's attention in writing.

ARTICLE 15. NONDISCRIMINATION.

It is the policy of the District that in connection with all services performed under contract, there will be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, handicap, religious creed, sex, age or marital status. Contractor agrees to comply with applicable federal and California laws including, but not limited to, the California Fair Employment and Housing Act.

ARTICLE 16. ATTORNEY'S FEES.

In the event of any action or proceeding brought by one party against the other party under this Agreement, the prevailing party shall be entitled to recover its attorney's fees and

reasonable costs in such action or proceeding in such an amount as the court may judge reasonable.

ARTICLE 17. SEVERABILITY.

Should any term or provision of this Agreement be determined to be illegal or in conflict with any law of the State of California, the validity of the remaining portions or provisions shall not be affected thereby. Each term or provision of this Agreement shall be valid and be enforced as written to the full extent permitted by law.

ARTICLE 18. RULES AND REGULATIONS.

All rules and regulations of the District's Board of Education and all federal, state and local laws, ordinance and regulations are to be strictly observed by the Contractor pursuant to this Agreement. Any rule, regulation or law required to be contained in this Agreement shall be deemed to be incorporated herein.

ARTICLE 19. CALIFORNIA LAW.

This Agreement shall be construed in accordance with and governed by the laws and decisions of the State of California.

ARTICLE 20. RATIFICATION BY BOARD OF EDUCATION.

Pursuant to the provisions of Education Code section 39656, SCUSD Board Regulation BP-3312 and SCUSD Board Resolution 2590, this Agreement is not enforceable and is invalid unless and until it is approved and/or ratified by the governing board of the Sacramento City Unified School District, as evidenced by a motion of said board duly passed and adopted.

Executed at Sacramento, California, on the day and year first above written.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

By: _____

Jonathan P. Raymond
Superintendent

_____
Date

By: Laarni Gallardo RN
Signature

Laarni Gallardo, RN, B.S.N.

06-23-2011
Date

R12-00374

MASTER ENABLING AGREEMENT

AGREEMENT NUMBER	AM. NO.
70818	
CONTRACTOR IDENTIFICATION NUMBER	
3351	

THIS AGREEMENT, made and entered into this 1st **day of August, 2008**, in the State of California, by and between the Trustees of the California State University, which is the State of California acting in a higher education capacity, through its duly appointed and acting officer, hereinafter called CSU and

CONTRACTOR'S NAME

Canon U.S.A., Inc. , hereafter called Contractor,

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulation of the University hereinafter expressed, does hereby agree to furnish to the University services and materials as follows:

In consideration of the covenant contained in the existing University of California (UC)/Canon USA Contract (#708/OP/009, Scope Paragraph 3.2), recognizing the participation of the 23 campuses and the Chancellor's Office of the Trustees of the California State University, Canon USA and CSU agree as follows:

The UC/Canon USA Contract shall be understood to include as "UC" each of the CSU Campuses and Chancellor's Office.

As a participant, the CSU shall receive the same product pricing and services as extended by Canon USA in the UC/Canon USA Agreement mentioned above. *Sentences 1 – 4 of Section 5.8 of Agreement 708/OP/009 does not apply to the CSU.*

The California State University system will utilize the UC Terms and Conditions as contained in the UC/Canon USA Agreement, excepting any that may conflict with the Attached Rider A, General Provisions for Information Technology Acquisitions that shall take precedence.

Canon USA must report all DVBE and Small Business activity under this agreement. The report, to be furnished in a mutually agreed upon format, must contain the following information: CSU campus location, company name and total dollar value of goods purchased. The report must be provided to the current Chancellor's Office SB/DVBE Advocate on a semi-annual basis as required under CSU Rider A, General Provision 25.

The term of this Agreement shall remain in effect until the earlier of 1) Expiration or termination of the applicable contract between UC and Canon USA, 2) written notice by CSU to Canon USA that CSU terminates this Agreement, given at least 30 days in advance of the effective date of such termination, or 3) written notice by Canon USA to CSU that Canon USA terminates this Agreement, given at least 30 days in advance of the effective date of such termination.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

UNIVERSITY	CONTRACTOR
Trustees of the California State University	**Canon USA, Inc.**
BY (AUTHORIZED SIGNATURE) DATE	BY (AUTHORIZED SIGNATURE) DATE
➢**SIGNED BY TOM ROBERTS ON 08/07/08**	➢**SIGNED BY GARY BARTH ON 08/05/08**
PRINTED NAME AND TITLE OF PERSON SIGNING	PRINTED NAME AND TITLE OF PERSON SIGNING
Tom Roberts, Director	Gary Barth, Vice President Government Marketing Division
DEPT.	ADDRESS
Contract Services & Procurement	2110 Washington Blvd, Ste. 300, Arlington, VA 22204

AMOUNT ENCUMBERED BY THIS DOCUMENT	Account	Sub Code
$0.00		
TOTAL AMOUNT ENCUMBERED TO DATE		
$0.00		

Rider A

CSU GENERAL PROVISIONS
for
INFORMATION TECHNOLOGY ACQUISITIONS

Revision 7/24/06
(Also revised on August 1, 2008)

CSU GENERAL PROVISIONS
for
INFORMATION TECHNOLOGY ACQUISITIONS

CSU GENERAL PROVISIONS
for
INFORMATION TECHNOLOGY ACQUISITIONS

1. Commencement of Work
Work shall not commence under the Contract until a fully executed Contract has been received by the Contractor and the Contractor has been given approval to proceed. Any work performed by the Contractor prior to the date of approval shall be considered as having been performed at the Contractor's own risk and as a volunteer.

2. Invoices
In connection with any discount offered, except when provision is made for a testing period preceding acceptance by the CSU, time will be computed from date of delivery of the commodities as specified, or from date that correct invoices are received in the office specified by the CSU if the latter date is later than the date of delivery. When provision is made for a testing period preceding acceptance by the CSU, date of delivery shall mean the date the supplies, equipment or services are accepted by the CSU following the specified testing period. Payment is deemed to be made, for the purpose of earning the discount, on the date of mailing the CSU warrant or check.
Invoices shall be submitted, in arrears, to the address stipulated in the Contract. The Contract number and Contractor's Identification number are to be included on the invoice. Final invoice shall be marked as such.
The Contractor shall submit invoices to the CSU for payment of goods and services rendered. Unless otherwise specified, the CSU shall pay properly submitted invoices not more than 45 days after (i) the acceptance of goods by the CSU; or (ii) receipt of an undisputed invoice, whichever is later. *Failure to make payment within the timeframes stated herein may result in interest penalty charges as allowed by the laws of the State of California.* ~~Late payment penalties shall not apply to this Contract.~~ The consideration to be paid Contractor, as described within the Contract, shall be in full compensation for all of Contractor's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

3. Appropriation of Funds
(a) If the term of the Contract extends into fiscal years subsequent to that in which it is approved such continuation of the Contract is subject to the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, Contractor agrees to take back any commodities furnished under the Contract, terminate any services supplied to the CSU under the Contract, and relieve the CSU of any further obligation therefore.
(b) CSU agrees that if provision (a) above is involved, commodities shall be returned to the Contractor in substantially the same condition in which they were delivered, subject to normal wear and tear. CSU further agrees to pay for packing, crating, transportation to Contractor's nearest facility and for reimbursement to Contractor for expenses incurred for its assistance in such packing and crating.
(c) Immediately provide written notice of an event of non-appropriation with at least thirty (30) days prior notice to end of funding.
(d) Require the Customer to certify the canceled equipment is not being replaced by similar equipment or equipment performing similar functions during the ensuing fiscal year.
(e) Ensure the Customer agrees to return the equipment in good condition, free of all liens and encumbrances. The Customer will then be released from obligations to make any further payments to Canon, assuming all sums have been paid that were due and owing up to the end of the fiscal year for which funds were appropriated.

4. Cancellation
CSU reserves the right to cancel this Contract at any time upon thirty (30) days written notice to the Contractor. *In the event of cancellation of the Contract, any existing leases, rentals or cost-per copy (cpc) placements will remain in effect until terminated by the respective lease, rental or cpc plan.*

5. Independent Status
The Contractor, and the agents and employees of Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State of California. While Contractor may (or may not) be required under the terms of this Contract to carry Worker's Compensation Insurance, Contractor is not entitled to unemployment or workers' compensation benefits from the CSU.

6. Conflict of Interest

(a) Should the Contractor provide services for preparation or development of recommendations for the actions which are required, suggested or otherwise deemed appropriate, and which include the provision, acquisition or delivery of products or service; then the Contractor must provide full disclosure of any financial interest including but not limited to service Agreements, OEM, and/or remarketing Agreement that may foreseeable allow the Contractor to materially benefit from the adoption of such recommendations.

(b) The CSU requires a Statement of Economic Interests (Form 700) to be filed by any Consultant (or Contractor) who is involved in the making, or participation in the making, of decisions which may forseeably have a material effect on any CSU financial interest [reference G.C. 82019].

The CSU reserves the right to prohibit participation by the Contractor in bidding to or providing services, goods or supplies or any other related action which is required, suggested or otherwise deemed appropriate in the end product of this Contract.

7. Governing Law

To the extent not inconsistent with applicable federal law, this Contract shall be construed in accordance with and governed by the laws of the State of California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.

8. Assignments

Without written consent of the CSU, the Contract is not assignable by Contractor either in whole or in part.

9. Time

Time is of the essence of the Contract.

10. Contract Alterations & Integration

No alteration or variation of the terms of the Contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or Contract not incorporated here in shall be binding on any of the parties hereto.

11. General Indemnity

The Contractor agrees to indemnify, defend and save harmless the CSU, its officers, agents and employees from any and all claims and losses accruing or resulting to any other person, firm or corporation furnishing or supplying work, service, materials or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation which may be injured or damaged by the Contractor in the performance of this Contract. *Except for indemnified matters and to the extent permitted by applicable law, all other liability of Canon to the Customer for damages of any kind or type, including but not limited to direct, indirect, consequential, incidental or special damages, arising from Canon's performance or failure to perform under this Contract or by virtue of Canon's tortuous conduct (including negligence whether passive or active) shall be limited to the amounts paid by Customer under this Agreement. The foregoing limitation of liability shall not apply to claims by the Customer for damage to real or tangible property caused by Canon's negligence.*

12. Use of Data

The Contractor shall not utilize any information, not a matter of public record, which is received by reason of this Contract, for pecuniary gain not contemplated by the terms of this Contract, regardless of whether the Contractor is or is not under contract at the time such gain is realized. CSU specific information contained in the report, survey, or other product developed by the Contractor pursuant to this Contract is the property of the CSU, and shall not be used in any manner by the Contractor unless authorized by the CSU.

13. Termination for Default

The CSU may terminate the Contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, the CSU may proceed with the work in any manner deemed proper by the CSU. The cost to the CSU shall be deducted from any sum due the Contractor under the Contract, and the balance, if any, shall be paid the Contractor upon demand.

14. Personnel
The Contractor shall make every effort consistent with sound business practices to honor the specific requests of the CSU with regard to assignment of its employees; however, the Contractor reserves the sole right to determine the assignment of its employees. If a Contractor employee is unable to perform due to illness, resignation, or other factors beyond the Contractor's control, the Contractor shall make every reasonable effort to provide suitable substitute personnel.

15. Nondiscrimination
(a) During the performance of this Contract, Contractor and its subcontractors shall not deny the Contract's benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age (over 40) or sex. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
(b) Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.), and the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code Sections 11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article.
(c) Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the Trustees upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours notice, to such of its books, records, accounts, other sources of information, and its facilities as said Department or Trustees shall require to ascertain compliance with this clause.
(d) The provisions of Executive Order 11246, as amended (Equal Employment Opportunity/Affirmative Action), Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212 or VEVRAA), and Section 503 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793), and the implementing regulations found at 41 CFR 60-1&2, 41 CFR 60-250, and 41 CFR 60-741, respectively, are hereby incorporated by reference.
(e) Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
(f) Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract. (Gov. Code Section 12990, 11135 et seq.; Title 2, California Code of Regs., Section 8107).

16. Drug-Free Workplace Certification
The Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:
a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
b) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
(i) the dangers of drug abuse in the workplace;
(ii) the person's or organization's policy of maintaining a drug-free workplace;
(iii) any available counseling, rehabilitation and employee assistance programs; and,
(iv) penalties that may be imposed upon employees for drug abuse violations.
c) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting Contract:
(i) will receive a copy of the company's drug-free policy statement; and,
(ii) will agree to abide by the terms of the company's statement as a condition of employment on the Contract.

17. Severability
The Contractor and the CSU agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision. Should the offending provision go to the heart of the Contract, the Contract shall be terminated in a manner commensurate with the interests of both parties, to the maximum extent reasonable.

18. Dispute
Any dispute arising under the terms of this Contract which is not resolved within a reasonable period of time by authorized representatives of the Contractor and the CSU shall be brought to the attention of the Chief Executive Officer (or designated representative) of the Contractor and the Chief Business Officer (or designee) of The CSU for joint resolution. At the request of either party, The CSU shall provide a forum for discussion of the disputed item(s), at which time the Vice Chancellor, Business and Finance (or designated representative) of The CSU shall be available to assist in the resolution by providing advice to both parties regarding The CSU contracting policies and procedures. If resolution of the dispute through these means is pursued without success, either party may seek resolution employing whatever remedies exist in law or equity beyond this Contract.
Despite an unresolved dispute, the Contractor shall continue without delay to perform its responsibilities under this Contract. The Contractor shall keep accurate records of its services in order to adequately document the extent of its services under this Contract.

19. Privacy of Personal Information
Contractor expressly acknowledges the privacy rights of individuals to their personal information that are expressed in the State's Information Practices Act (California Civil Code Section 1798 et seq.) and in California Constitution Article 1, Section 1. Contractor shall maintain the privacy of personal information. Contractor shall not release personal information contained in CSU records without full compliance with applicable state and federal privacy laws. Contractor further, acknowledges Federal privacy laws such as Gramm-Leach-Bliley Act (Title 15, United States Code, Sections 6801(b) and 6805(b)(2)) applicable to financial transactions and Family Educational Rights and Privacy Act (Title 20, United States Code, Section 1232g) applicable to student records and information from student records. Contractor shall maintain the privacy of protected personal information and shall be financially responsible, if and to the extent that any security breach relating to protected personal information results from acts or omissions of Contractor, or its personnel, for any notifications to affected persons (after prompt consultation with CSU), and to the extent requested by CSU, administratively responsible for such notifications.

20. Waiver of Rights
Any action or inaction by the CSU or the failure of the CSU on any occasion to enforce any right or provision of the Contract shall not be construed to be a waiver by the CSU of its rights hereunder and shall not prevent the CSU from enforcing such provision or right on any future occasion. The rights and remedies of the CSU provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law.

21. Endorsement
Nothing contained in this Contract shall be construed as conferring on any party hereto, any right to use the other party's name as an endorsement of product/service or to advertise, promote or otherwise market any product or service without the prior written consent of the other party. Furthermore nothing in this Contract shall be construed as endorsement of any commercial product or service by the CSU, its officers or employees.

22. Patent, Copyright, and Trade Secret Indemnity
a) Contractor will indemnify, defend, and save harmless the CSU, its officers, agents, and employees, from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any Intellectual Property Right, domestic or foreign, by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to the CSU, in addition to the foregoing provision, such indemnity rights as it receives from such third party ("Third Party Obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the Third Party Obligation, Contractor will provide the CSU with indemnity protection.

i) The CSU will notify Contractor of such claim in writing and tender the defense thereof within a reasonable time; and

ii) The Contractor will have control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when substantial principles of government or public law are involved, when litigation might create precedent affecting future CSU operations or liability, or when involvement of the CSU is otherwise mandated by law the CSU has the option to participate in such action at its own expense. *If Canon requests, CSU agrees at Canon's expense, to assist and/or cooperate with Canon as Canon reasonably believes is necessary in such defense and/or settlement.*

b) ~~Contractor may be required to furnish a bond to the CSU against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.~~

c) Should the Deliverables or Software, or the operation thereof, become, or in the Contactor's opinion are likely to become, the subject of a claim of infringement or violation of a Intellectual Property Right, whether domestic or foreign, the CSU shall permit the Contractor at its option and expense either to procure for the CSU the right to continue using the Deliverables or Software, or to replace or modify the same so that they become non-infringing provided they comply with Contract bid and performance requirements and/or expectations. If none of these options can reasonably be taken, or if the use of such Deliverables or Software by the CSU shall be prevented by injunction, the Contractor agrees to take back such Deliverables or Software and make every reasonable effort to assist the CSU in procuring substitute Deliverables or Software at Contractors cost and expense. If, in the sole opinion of the CSU, the return of such infringing Deliverables or Software makes the retention of other Deliverables or Software acquired from the Contractor under this Contract impracticable, the CSU shall then have the option of terminating such Contracts, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Deliverables or Software and refund any sums the CSU has paid Contractor less any reasonable amount for use or damage. *Anything herein to the contrary notwithstanding, Canon will not be obligated to defend or settle or be liable for costs, fees, expenses or damages to the extent that the infringement claim arises out of any addition to or modification of the Deliverables or Software or any combination thereof with other products after delivery by Canon or from use of the Deliverables or Software in the practice of a process or system other than intended use of the Deliverables or Software*

e) Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer Software in violation of copyright laws.

f) The foregoing states the entire liability of Canon in respect of infringement of any patent, copyright, trade secret or any other proprietary right of any third party and is in lieu of all warranties, express or implied, in regard thereto, and in no event will Canon be liable for direct, special, incidental or consequential damages, including, but not limited to loss of anticipated profits or other economic loss.

23. Compliance with NLRB Orders

Contractor declares under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, Public Contract Code Section 10296.

24. Examination and Audit

For contracts in excess of $10,000, the Contractor shall be subject to the examination and audit of (a) the Office of the University Auditor, and (b) the State Auditor, for a period of three (3) years after final payment under the contract in accordance with Government Code Section 8546.7 and with Education Code Section 89045(c & d), respectively. The examination and audit shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the Contract.

25. DVBE and Small Business Participation

The State of California supports statewide participation goals of 3% for disabled business enterprises, (DVBE Program) and requires agencies to provide a 5% preference when awarding contracts to small businesses. Only small businesses certified by the Office of Small and Minority Businesses (OSMB) are eligible to receive the preference. The CSU

encourages all contractors to use the services of DVBE and OSMB-certified small business enterprises whenever possible, and to report their use to the CSU.

26. Citizenship and Public Benefits
If Contractor is a natural person, Contractor certifies in accepting this Contract that s/he is a citizen or national of the United States or otherwise qualified to receive public benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 110 STAT.2105, 2268-69).

27. Americans With Disabilities Act (ADA)
Contractor warrants that it complies with California and federal disabilities laws and regulations.
Contractor hereby warrants that the products or services to be provided under this contract comply with the accessibility requirements of section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. Vendor further agrees to indemnify and hold harmless the CSU using the vendor's products or services from any claims arising out of its failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a breach and be grounds for termination of this Contract.

28. Child Support Compliance Act
For any contract in excess of $100,000, the contractor acknowledges in accordance with Public Contract Code Section 7110, that:
(a) The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
(b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

29. Document Referencing
All correspondence, invoices, bills of lading, shipping memos, packages, etc., must show the Contract number. If factory shipment, the factory must be advised to comply. Invoices not properly identified with the contract number and contractor identification number may be returned to contractor and may cause delay in payment.

30. Taxes, Fees, Expenses, and Extras
(a) Articles sold to the CSU are exempt from certain Federal Excise Taxes. The CSU will furnish an exemption certificate on request.
(b) Unless specified otherwise, prices quoted shall include all required taxes.
(c) No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the CSU unless expressly included and itemized in the bid.
Unless otherwise indicated on the Purchase Order or Contract, on "FOB Shipping Point" transactions vendor shall arrange for lowest cost transportation, prepay, add freight to invoice, and furnish supporting freight bills over $50. Shipments that are California intrastate in nature and where freight is to be borne by the CSU shall be tendered to carriers with written instructions that rates and charges may not exceed the lowest lawful rates on file with the California Public Utilities Commission.
On "FOB Shipping Point" transactions, should any shipments under this Purchase Order or Contract be received by the CSU in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers by wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper, such as inadequate packing or loading or some inherent defect in the equipment and/or material, vendor on request of the CSU shall at vendor's own expense assist the CSU in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

31. Forced, Convict, Indentured and Child Labor
By accepting a contract or purchase order, the Contractor certifies that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the State pursuant to this Contract have been laundered or produced in whole or in part by sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, or abusive forms of child labor or exploitation of children in sweatshop labor. Contractor shall cooperate fully in providing reasonable access to the Contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the CSU, the Department of Industrial Relations, or the Department of Justice determine the Contractor's compliance with the requirements above. (Public Contract Code Section 6108)

32. Covenant Against Gratuities
The Contractor shall warrant that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the CSU with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the CSU shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the CSU in procuring on the open market any items which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the CSU provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

33. Rights and Remedies of CSU for Default
(a) In the event any Deliverables furnished or services provided by the Contractor in the performance of this Contract should fail to conform to the requirements herein, or to the sample submitted by the Contractor, the CSU may reject the same, and it shall thereupon become the duty of the Contractor to reclaim and remove the same forthwith or to correct the performance of services, without expense to the CSU, and immediately to replace all such rejected items with others conforming to such specifications or samples; provided that should the Contractor fail, neglect, or refuse to do so, the CSU shall thereupon have the right to purchase in the open market, in lieu thereof, a corresponding quantity of any such items and to deduct from any moneys due or that may thereafter become due to the Contractor the difference between the price named in the Contract and the actual cost thereof to the CSU.
(b) In the event the Contractor shall fail to make prompt delivery as specified of any item, the same conditions as to the right of the CSU to purchase in the open market and to reimbursement set forth above shall apply, except for force majeure. Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts (known as "force majeure") shall include but shall not be limited to fire, strike, freight embargo or acts of God and of the Government. If a delay or failure in performance by the Contractor arises out of a default of its subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.
(c) In the event of the termination of the Contract, either in whole or in part, by reason of the default or breach thereof by the Contractor, any loss or damage sustained by the CSU in procuring any items which the Contractor therein agreed to supply shall be borne and paid for by the Contractor.
(d) The rights and remedies of the CSU provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

34. Contractor's Power and Authority
The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the CSU hereunder harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of the CSU under this Contract.

35. Recycled Content Certification
Contractor agrees to certify in writing, under penalty of perjury, the minimum, if not the exact, percentage of recycled content material, as defined in Sections 12161 and 12200 of the Public Contract Code, in materials, goods, or supplies used in the performance of this Contract.

36. Entire Contract
This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

37. Safety and Accident Prevention
In performing work under this Contract on CSU premises, Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. Contractor shall take any additional precautions as the CSU may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with default provisions hereof.

38. Rights in Work Product
a) All inventions, discoveries, intellectual property, technical communications and records originated or prepared by the Contractor pursuant to this Contract including papers, reports, charts, computer programs, and other Documentation or improvements thereto, and including Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be Contractor's exclusive property. The provisions of this sub-section a) may be revised in a Statement of Work.

b) Software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of this Contract or applicable purchase order ("Pre-Existing Materials") do not constitute Work Product. If Contractor creates derivative works of Pre-Existing Materials, the elements of such derivative works created pursuant to this Contract constitute Work Product, but other elements do not. Nothing in this Clause will be construed to interfere with Contractor's or its affiliates' ownership of Pre-Existing Materials. The CSU will have Government Purpose Rights to the Work Product as Deliverable or delivered to the CSU hereunder. "Government Purpose Rights" ~~are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work~~ *Product are the unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive rights and licenses to use, modify for CSU use, perform, display, and disclose the Work Product within CSU.* ~~"Government Purpose Rights" also include the right to release or disclose the Work Product outside the CSU for any CSU purpose and to authorize recipients to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the Work Product for any CSU purpose. Such recipients of the Work Product may include, without limitation, CSU Contractors, California State government, California local governments, the U.S. federal government, and the State and local governments of other states~~. "Government Purpose Rights" do not include any rights to use, modify, reproduce, perform, release, display, create derivative works from, or disclose the Work Product for any commercial purpose. The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this Contract by the Contractor or jointly by the Contractor and the State may *not* be used by ~~either party~~ *the CSU without prior approval from Contractor* ~~obligation of notice or accounting~~. This Contract shall not preclude the Contractor from developing materials outside this Contract that are competitive, irrespective of their similarity to materials which might be delivered to the State pursuant to this Contract.

c) Any development of software will be as set forth in an individual Statement of Work (SOW). If there is a conflict between this Agreement and the SOW, the SOW will prevail.

39. Follow-On Contracts
a) If the Contractor or its affiliates provides Consulting and Direction (as defined below), the Contractor and its affiliates:
   (i) will not be awarded a subsequent Contract to supply the service or system, or any significant component thereof, that is used for or in connection with any subject of such Consulting and Direction; and
   (ii) will not act as consultant to any person or entity that does receive a Contract described in sub-section (i). This prohibition will continue for one (1) year after termination of this Contract or completion of the Consulting and Direction, whichever comes later.

b) "Consulting and Direction" means services for which the Contractor received compensation from the CSU and includes:
   (i) development of or assistance in the development of work statements, specifications, solicitations, or feasibility studies;
   (ii) development or design of test requirements;
   (iii) evaluation of test data;
   (iv) direction of or evaluation of another Contractor;
   (v) provision of formal recommendations regarding the acquisition of products or services; or
   (vi) provisions of formal recommendations regarding any of the above. For purposes of this Section, "affiliates" are employees, directors, partners, joint venture participants, parent corporations, subsidiaries, or any other entity controlled by, controlling, or under common control with the Contractor. Control exists when an entity owns or directs more than fifty percent (50%) of the outstanding shares or securities representing the right to vote for the election of directors or other managing authority.

c) Except as prohibited by law, the restrictions of this Section will not apply:
   (i) to follow-on advice given by vendors of commercial off-the-shelf products, including Software and Hardware, on the operation, integration, repair, or maintenance of such products after sale; or
   (ii) where the CSU has entered into a Contract for Software or services and the scope of work at the time of Contract execution expressly calls for future recommendations among the Contractor's own products.

d) The restrictions set forth in this Section are in addition to conflict of interest restrictions imposed on public Contractors by California law ("Conflict Laws"). In the event of any inconsistency, such Conflict Laws override the provisions of this Section, even if enacted after execution of this Contract.

40. Expatriate Corporations

By accepting a contract or purchase order, the Contractor declares under penalty of perjury under the laws of the State of California that the Contractor is eligible to contract with the CSU pursuant to The California Taxpayer and Shareholder Protection Act of 2003, Public Contract Code Section 10286 et. Seq.

41. Insurance Requirements

Contractor shall furnish to the CSU prior to the commencement of work an underwriter's endorsement with a certificate of insurance stating that there is General Liability insurance presently in effect for the contractor with a combined single limit of not less than $1,000,000 per occurrence, and $2,000,000 aggregate; and that vehicle insurance (where applicable) is in effect with a minimum coverage of $1,000,000 per occurrence.

(a) The certificate of insurance shall provide:
   (i) That the insurer will not cancel the insured's coverage without thirty (30) days prior notice to the CSU;
   (ii) That the State of California, the Trustees of the California State University, the CSU, the campus and the employees, volunteers, officers, and agents of each of them, are included as additional insureds, but only insofar as the operations under this contract are concerned;
   (iii) That the State, the Trustees, and the CSU, and the employees, officers, and agents of each of them will not be responsible for any premiums or assessments on the policy;
   (iv) That the insurer has an AM Best rating of A:VII or equivalent.

(b) Contractor agrees that the bodily injury liability insurance herein provided shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided herein for not less than the remainder of the term of the contract, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the CSU, and the contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event contractor fails to keep in effect at all times insurance coverage as herein provided, the CSU may in addition to any other remedies it may have, terminate this contract upon the occurrence of such event.

(c) Workers' Compensation insurance coverage as required by the State of California.

42. Confidentiality of Data

All financial, statistical, personal, technical and other data and information relating to CSU's operation which are designated confidential by the CSU and not otherwise subject to disclosure under the California Public Records Act, and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in

carrying out this Contract, shall be protected by the Contractor using the same level of care in preventing unauthorized disclosure or use of the confidential information that it takes to protects its own information of a similar nature, but in no event less than reasonable care. The Contractor shall not be required under the provisions of this clause to keep confidential any data or information that is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of this Contract, or is rightfully obtained from third parties.

43. Pricing
All published pricing is exclusive of all federal, state and local taxes.

44. Identified Parties
Canon as stated herein shall also be known as Contractor in the IT Provisions. CSU as stated herein shall also be known as Customer in the IT Provisions. Contract as stated herein shall also be known as the Master Enabling Agreement ("Agreement").

STRATEGIC SOURCING AGREEMENT
CANON DIGITAL COPIER PRODUCTS AND SERVICES

THIS STRATEGIC SOURCING AGREEMENT ("Agreement") is made and entered into this 1st day, of May 2005, by and between The Regents of the University of California ("UC"), and Canon U.S.A., Inc., ("Supplier") with its principal place of business at 2110 Washington Boulevard, Suite 300, Arlington, VA 22204.

1. **DEFINITIONS**

As used in this Agreement and in any appendices and attachments which becomes a part of it, the following terms have the following meanings:

1.1. "Business Day" shall mean Monday through Friday, between 8:00am - 5:00pm, excluding UC and Supplier observed holidays. Supplier shall provide a Supplier holiday schedule on or before April for the following calendar year.

1.2. "Account Manager" means the Supplier employee, satisfactory to UC, whom Supplier designates to UC as the person with overall responsibility at Supplier managing the UC/Supplier relationship under this Agreement.

1.3. "Product" or "Products" shall mean Supplier digital copiers as priced in Attachments 1(A) – 1(D) and Attachments 2 and 3.

1.4. "Dealer" or "Dealers" shall mean that during the term of this Agreement and any extension(s) of such term, Supplier will designate IKON to provide services and support to UC as specified in this Agreement. Each UC location reserves the right to select other Dealer(s) certified by Supplier and/or Supplier-owned Facilities to service and support Supplier's Product(s) included in this Agreement.

2. **DESCRIPTION OF PROGRAM**

2.1. General During the term of this Agreement, and any extension(s) of such term, Supplier agrees to sell, lease, and rent Products and services to UC as specified herein upon receipt of valid UC purchase order. All such purchase orders shall be governed by the terms and conditions set forth in this Agreement.

3. **SCOPE**

3.1 This Agreement shall be extended to include all of UC current and future locations.

3.2 California State University System An Agreement of Understanding exists between The Regents of the University of California and The Trustees of the California State University (CSU), establishing the California Higher Education Consortium (CHEC). Through a collaborative relationship, the Consortium seeks to combine procurement and contracting activities and efforts to obtain best value goods and services while reducing total acquisition costs. Accordingly, the Agreement resulting from this solicitation shall recognize the participation of the 23 campuses of the Trustees of the California State University with the following understandings:

- Supplier agrees to extend the product pricing and services to the CSU Institutions under the terms of this Agreement, under a separate CSU agreement.

- All contractual administration issues regarding this Agreement (e.g. terms and conditions, extensions, renewals, etc.) shall remain the responsibility of the University of California. Operational issues, fiduciary responsibility, payment issues, performance issues and liabilities, and disputes involving individual CSU campuses shall be addressed, administered, and resolved by each CSU campus. The University of California and the California State University are separate and distinct governmental entities. As such, each administrative unit and campus therein is financially separate and shall be responsible for individual financial commitments. No fiduciary responsibility for performance liability, unless otherwise expressed, exists between the University of California and California State University and their respective campuses.

4. PROGRAM REQUIREMENTS

4.1. Project Manager Supplier shall assign a project manager to coordinate implementation of this Agreement.

4.2. Program Administration Supplier will arrange initial meetings with individual location representatives for the purpose of identifying and implementing specific processes and procedures require by the respective locations. Supplier will provide the necessary staff and resources to support UC program administration functions as outlined in the RFP and Supplier's Response including but not limited to:

- Providing on-site representation on a regular basis to increase sales activity by marketing Supplier Products to UC locations, assist in resolving problems, demonstrate new Products, provide training and other customer services as required for the efficient operation of the program;
- Conduct initial and follow-up meetings with locations to develop processes and procedures for implementation that are consistent with exiting location programs.
- Coordinating program implementation;
- Coordinating all the order/installation process, inquiries regarding order status, and pricing;
- Providing superior customer service;
- Managing the continuous improvement process;
- Providing on-going contract monitoring and maintenance;
- Offering cost reduction and process improvement opportunities to UC;
- Conducting monthly account review meetings.

4.3. Service Standards During the term of this Agreement and any extension(s) of such term, Supplier shall provide the following minimum service standards:

- Uptime - 96%
- Response time - 3 hours
- Repair time - an average of 2 hours
- Delivery (copiers) - 10 days
- Delivery (supplies) - 2 days
- Installation - Upon delivery within 4 hours
- Return customer calls - Within 1 hour
- Resolve billing issues - Within 10 days

During the term of this Agreement and any extension(s) of such term, Supplier shall provide after hour services based on the following service standards:

- Response time - 4 hours
- Repair time - Average of 2 hours

Maintenance services requested and performed outside Supplier's normal business hours will be charged to UC at the rates provided in the Attachment 2. Supplier shall not charge UC more then thirty (30) minutes travel time for the services performed after normal business hours. Supplier agrees to use best effort to comply with the after hour service standards as defined in this paragraph.

4.4. Service Warranty Supplier warrants that services will be performed in a good workmanlike manner in accordance with the applicable service description. Supplier will service during the warranty as well as during the Service Contract through its own Service Organization. It is understood and agreed by UC that Supplier retains exclusive ownership and control of any proprietary software diagnostics utilized in servicing the Products.

4.5. Non-Performance Penalty Supplier agrees to credit UC for not complying with the service standards specified in paragraph 4.3, as follows:

- Maintenance credit - Up to one hundred (100) percent credit of monthly base maintenance charge for copier availability of less than ninety six (96) percent calculated for each copier as specified in Attachment 4.
- Delivery credit - Up to fifteen (15) percent of the UC net purchase price or monthly lease/rental charge calculated for each copier as specified in Attachment 5. The credit for late delivery will not apply in the event Supplier provides, within required delivery time, a loner acceptable by UC ordering department.

4.6. FOB FOB is UC destinations.

4.7. Delivery Time is of the essence with respect to the performance of each and every condition, covenant and agreement contained herein. UC has the option to accept or reject all Products delivered after promised delivery time, and, in addition, may hold Supplier liable for all direct damages caused by late delivery as determined and documented by UC; provided, however, in no event shall the amount of such direct damages exceed UC documented replacement/substitution cost for Products ordered. Supplier will report any delivery delay whatsoever to the ordering location, as well as its cause, within two (2) days after Supplier is able to reasonably determine there will be such a delay, such report will be provided to UC by telephone, e-mail, or facsimile. Supplier shall keep UC fully informed and shall take all reasonable action in eliminating the cause of delay. Despite any previous language to the contrary if late delivery is due to causes beyond the reasonable control and without the fault or negligence of Supplier, including but not limited to: acts of God, war, civil commotion, governmental action, fire, floods, unusually severe weather, explosions, earthquakes, strikes, walkouts, quarantine restrictions, or any other causes beyond reasonable control of Supplier, Supplier shall not have any late-delivery liability to UC.

UC failure to take, or delay in taking delivery, when due to causes beyond the reasonable control and without the fault or negligence of UC, including but not limited to: acts of God, war, civil commotion, governmental action, fire, floods, unusually severe weather, explosions, earthquakes, strikes, walkouts, quarantine restrictions, or any other causes beyond reasonable control of UC, shall not result in any liability of UC to Supplier.

4.8. Training Supplier shall provide on-site general user and key operator training for each Product at the time of installation ("Initial Training"), follow-up and on-going training as requested by UC. Supplier agrees to support all of UC training requirements at no charge to UC.

4.9. Environmental Sustainability During the term of this Agreement and any extension(s) of such term, Supplier agrees that its Products will be compliant with the following environmental specifications:

- Complies with the EPA ENERGY STAR® Program, and equipped with reasonable recovery time from Energy Star power management modes
- Uses returnable or recyclable and remanufactured toner cartridges
- Uses an organic photoreceptor (if not organic, it must not contain arsenic, cadmium, or selenium)
- Does not use wet process technology
- Does not emit ozone at a concentration in excess of 0.02 mg/m3
- Does not emit dust at a concentration in excess of 0.25 mg/m3
- Does not emit styrene at a concentration in excess of 0.11 mg/m3
- Contains no polybrominated biphenyls (PBBs) or biphenyl ethers (PBDEs)
- Is designed for remanufacturing and reuse of parts
- Contains materials made with recycled content
- Uses minimal packaging and/or supplier arranges for packaging taken back for reuse
- Can be taken back by the supplier at the end of its useful life for remanufacturing, refurbishing, or recycling of parts

4.10. Supplier agrees to develop and maintain a UC website as specified in Supplier's offer, at no additional charge. This site may include Contract Information, Equipment Technical Information, and Pricing, as well as Pages that define Ordering, Supply, Repair, or Contact Information pertaining to this agreement and or unique parameters required by an individual campus.

4.11. Technical Support During the term of this Agreement and any extension(s) of such term, Supplier agrees to provide technical support as follows:

- Assist UC customers with installation and configuration of Supplier's hardware/software for networked printing in a timely manner.
- Provide on-going Product hardware, software and network support
- Provide dedicated technical support staff for Products. Such technical support staff shall have strong working knowledge of all aspects of network printing across all platforms, including the following:
  - Hardware installation (network cards, etc.
  - Network administration (equipment, software, cabling, installation/configuration, printer driver installation/configuration/characteristics)
  - Troubleshooting
  - Network and device security.
  - Any advanced network Technical Support beyond the aforementioned would be supported on a fee basis, if required.

4.12. Order Packaging and Labeling Supplier agrees that each UC order of Supplier's Products will be labeled with the following information:

- Purchase order number
- Product description, manufacturer number for each item
- Any other information, as may be requested by UC and mutually agreed upon by UC and Supplier

Packing slips shall be attached to the outside of the package such that it can be inspected by UC at the requesting department and/or receiving dock.

4.13. Environmentally Responsible Packaging Supplier agrees to use good faith efforts to utilize environmentally responsible packaging and recycling practices to minimize the adverse effects of packaging on the environment.

4.14. Order Procedures Canon, Inc. valid and correct orders placed shall be binding when accepted by an authorized representative of Supplier and an acknowledged copy of such acceptance has been communicated to UC. Each such order for any Products covered by this Agreement and all documents issued as a result thereof, shall be governed by this Agreement. Each order shall specify the quantity, description, price, and delivery point.

All invoices, packing lists, packages, shipping notices, and other written documents shall contain applicable UC order or release number and the Agreement number.

4.15. Invoicing All invoices must clearly indicate the following information:

- California sales tax as a separate line item;
- Order or release number and the Agreement number;
- Description, quantity, model name or number of the item ordered;
- Net cost of each item;
- Reference to original order number for all credit invoices issued.

Invoices will be submitted directly to UC Accounts Payable Departments at each location, unless the Supplier is notified otherwise by amendment to the Agreement or purchase order instructions. Invoices will normally be paid within thirty (30) days of satisfactory product delivery or receipt of correct invoice. Canon reserves the right to withhold incentive payments for any disputed invoices until the point that resolution on said invoice is reached.

5. PRICING AND APPLICABLE TAXES

5.1. The prices of Supplier's Products included in this Agreement shall not increase for the duration of this Agreement for existing models. Supplier will add direct replacement models to this Agreement at either the same percent discount off list or the same price as the model being replaced. The prices of Supplier's services included in this Agreement shall not increase for the first twelve (12) month period of this Agreement. The following pricing Attachments are included as part of this Agreement:

- Attachment 1(A) - Purchase Option
- Attachment 1(B) -Lease Options
- Attachment 1(C) -Rental Options
- Attachment 1(D) -Cost Per Copy Options
- Attachment 2 - Time and Materials Price List
- Attachment 3 - Supplies Pricing

5.2. Supplier agrees to extend the pricing terms for maintenance services and supplies included in this Agreement to Supplier's current population of Products placed at UC prior to the execution of this Agreement for models that are identical

to the models in the bid. In the event that the current pricing for maintenance services and supplies is less compared to the pricing listed in Attachments 1(A) – 1(D), the current pricing shall not change.

5.3. Price increases shall be subject to adjustments no more than once in each successive twelve (12) month period on ~~October~~ April 1 of each year, if any, as negotiated by both parties. Any price increase require a thirty (30) day prior written notification and no price increase shall exceed at any one time 3% or Consumer Price Index (CPI) whichever is less.

5.4. In the event that a certain Product line has a significant price increase in excess of 5%, those prices shall be negotiated individually between both parties.

5.5. Price increases must be supported by documented evidence of Supplier's manufacturer price increases. UC shall benefit from any lower price offered to other Universities, hospitals, government owned Colleges and Universities, agencies or entities where the quantities and terms and conditions, economic, and service requirements are substantially similar. If Supplier's list price of Products is reduced, UC shall benefit from a corresponding price reduction.

5.6. Supplier was advised that there is no mandatory use policy at UC, and Supplier must compete with other suppliers for UC orders. Therefore, Supplier shall guarantee that manufacturer and/or Supplier price decreases be passed on to UC immediately.

5.7. The prices of Supplier's Products recited on Attachments 1(A) – 1(D) includes installation and set up of the Products in the location requested by UC. It also includes the key operator and campus users initial, on going training and Product removal costs of UC owned equipment.

5.8. During the term of this Agreement, and any extension(s) to such term, Supplier agrees to provide UC a quarterly Patronage Incentive in the amount equal to two (2) percent of the total sales of Products. The amount of quarterly Patronage Incentive provided to each UC location will be calculated based on the total quarterly sales to each campus. The Patronage Incentive will be issued to The Regents of the University of California and mailed to each UC location participating in the rebate program. Each participating location shall have the right to modify proposal pricing for the individual location, up to 2% in the event that the location decides not to implement a rebate program.

5.9 The following campuses of the UC, provides Centralized Copier Programs:

- UC – San Diego
- UC – Berkeley
- UC – Davis
- UC – Santa Cruz

To the above campuses with Centralized Copier Programs, Supplier will offer a seven (7) percent additional discount off the UC's contracted cost per copy and overages rates as they apply to maintenance. The Centralized Copier Programs will reduce vendor sales, service, administrative and delivery costs, and include but are not limited to the following (these services vary by location):

- Consultation and equipment needs assessment with campus departments.
- Consolidation of copier orders for volume deliveries and meter read reporting.
- Centralized invoice reconciliation.

- Coordination of campus services for delivery access, electrical upgrades, network access, copy control systems, help desk troubleshooting and service call reduction.
- Mediation in customer equipment expectations and performance issues.

6. **REPORTING**

6.1. Supplier will provide UC monthly and quarterly reports as follows:

- Population of digital copiers sorted by organization, model and acquisition method
- Monthly performance reports
- Monthly costs reports

6.2. Supplier agrees to provide other reports as reasonably requested by UC during the term of the Agreement and any extension(s) to such term at no cost to UC.

7. **SURVEYS**

7.1. Supplier shall, at UC request, conduct customer satisfaction surveys. The content of these surveys shall be approved by UC. UC shall be responsible for the tabulation of these surveys.

8. **TRADE-INS**

8.1. Supplier agrees to assist UC in obtaining the best trade-in values available for UC owned Products through Supplier's recommended Equipment Brokers. Supplier shall provide the required administrative support, including removal of UC owned products, to UC to effectively manage the trade-in transaction(s) at no cost to UC.

9. **MAINTENANCE SERVICE**

9.1. Supplier agrees to provide to UC, during Supplier's normal business hours, the maintenance service necessary to keep the Product in, or restore the Product to, good working order in accordance with Supplier's policies then in effect. This maintenance service includes maintenance based upon the specific needs of individual Product, as determined by Supplier, and unscheduled, on-call remedial maintenance. At any given location, UC must select either a supply inclusive service plan or a non-inclusive service plan.

Maintenance will include lubrication, adjustments, and replacement of maintenance parts deemed necessary by Supplier. Maintenance will also include printer drivers, software, and equipment firmware updates deemed necessary by the Supplier. Maintenance parts will be furnished on an exchange basis, and the replaced parts become the property of Supplier. Maintenance services provided under this Agreement does not assure uninterrupted operation of the Product.

Maintenance service requested and performed outside Supplier's normal business hours will be charged to UC at Supplier's applicable time and material rates and terms as provided in Attachment 2.

9.2. Maintenance Options During the term of this Agreement and any extension(s) of such term, Supplier agrees to provide maintenance services based on the following options:

Option 1: Cost Per Copy (CPC) Charge (Service & Supplies only)

Supplier will provide full service maintenance, including parts and labor and all consumable supplies (except for paper) and charge UC on a monthly basis, based on a cost per copy charge applied to the actual monthly copy volume without any minimum and/or maximum copying restrictions excluding the12 and 36 months All Inclusive Rental Cost Per Copy pricing options (hardware inclusive). Select accessories for high volume equipment may include an annual base charge as noted in Attachment 1(A).

Option 2: Monthly Minimum Charge
Supplier will provide full service maintenance, including parts and labor and all consumable supplies (except for paper), and charge UC an annual fixed monthly minimum charge, which will include a monthly copy volume allowance, and a cost per copy charge for the overage.

Option 3: T&M -Fixed Charge per Occurrence
Supplier will provide its service maintenance based on Time and Material option and charge UC a fixed amount per occurrence and/or a fixed hourly fee, which will exclude replacement parts.

9.3. Maintenance service provided by Supplier under this Agreement does not include:

a) Repair of damage or increase in service time caused by failure of UC continually to provide a suitable installation environment with all facilities prescribed by Supplier, including, but not limited to, the failure to provide, adequate electrical power, air-conditioning, or humidity-control;

b) Repair of damage or increase in service time caused by: accident, disaster (which shall include but not be limited to fire, flood, water, wind and lightening); transportation, neglect, power transients, abuse or misuse, failure of UC to follow Supplier's published operating instructions, and unauthorized modifications or repair of Product by persons other than authorized representatives of Supplier;

c) Repair of damage or increase in service time caused by use of the Product for purposes other than those for which designed;

d) Repair of damage, replacement of parts (due to other than normal wear) or repetitive service calls caused by use of incompatible supplies;

e) Complete unit replacement or refurbishment of the Product;

f) Electrical work external to the Product or maintenance of accessories, attachments, or other devices not furnished by Supplier;

g) Increase in service time caused by UC denial of full and free access to the Product or denial of departure from UC site.

h) Product relocations.

The foregoing items excluded from Maintenance Service, if performed by Supplier, will be charged to UC at Suppliers applicable time and material rates and terms.

10. INSTALLATION

10.1. Installation shall be deemed completed upon successful conclusion of Supplier's standard test procedures.

11. PERFORMANCE

11.1. Supplier warrants that all Products will perform according to Supplier published specifications.

11.2. Supplier warrants that all new Products must perform to UC satisfaction. In the event that UC is not satisfied with the performance of Supplier's Product(s), Supplier agrees to the following terms:

- After notifying Supplier of such non-performance and such non-performance is not corrected within 30-days of such notice, upon UC approval, Supplier will provide a replacement with the same or comparable Supplier's Product(s) at no charge to UC.

- After notifying Supplier of such non-performance and such non-performance is not corrected within 30-days of such notice, upon UC request. In the event of a purchased Product(s), Supplier will credit UC based on a prorated amount of the Product(s) purchase price, if Product(s) removed within first three (3) years of purchase date.

12. PRODUCTS ACQUISITION TERMS AND CONDITIONS

The Products, supplies and services included in this Agreement shall be furnished to UC based on the following terms and conditions:

12.1. PURCHASE OPTION

12.1.1. Supplier agrees to sell to UC Products recited in Attachments 1(A), if requested by UC, in accordance with the requirements set forth in this Agreement. Supplier shall warrant that the Products are new and owned by Supplier. Supplier warrants that it will repair or replace defective Products and/or parts, including labor at no cost to UC for ninety (90) days after the installation date.

12.2. FMV LEASE OPTION

12.2.1. Supplier agrees to Lease to UC Products recited in Attachment 1(B), if requested by UC, for the three (3), four (4), and five (5) year FMV lease terms in accordance with the requirements set forth in this Agreement. Supplier shall warrant that the Products are new, and owned by Supplier. Supplier warrants that it will repair or replace defective Products and/or parts, including labor for the life of the lease at no additional charge, at no cost to UC for ninety (90) days after the installation date.

12.2.2. UC shall pay the Lease payments and other payments, if any, shown on each order to Supplier at its address set forth thereon, or as otherwise directed by Supplier in writing.

12.2.3. No loss or damage except for loss or damage due solely to the negligence of Supplier's name shall relieve UC of the obligation to pay any Lease payment or of any other obligation under this Agreement. In the event of loss or damage not attributable solely to the negligence of Supplier, UC, at the option of Supplier shall:

a) Place the Product in good condition and repair: or

b) Replace the Product with like equipment in good condition and repair with clear title in Supplier's name and subject to all of the terms and conditions of this Agreement: or

c) Pay to Supplier the sum of all Lease payments due and owing at the time of such loss or damage and the fair market value of the equipment at time of such loss or damage.

Upon replacement of the Product pursuant to subparagraph (b) above or upon Supplier's receipt of the payment provided for in subparagraph (c). UC and/or UC insurer shall be entitled to Supplier's interest in the original Product, for salvage purposes, at its then-current condition and location. AS IS, WHERE IS, WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED.

12.2.4. UC shall have an option to purchase the Product AS IS, WHERE IS, by giving Supplier at least thirty (30) days prior notice of UC intent to purchase at the termination of the term specified in any order or any renewal thereof. The purchase price shall be the Product's then fair market value plus all applicable sales taxes.

12.2.5. UC shall have the option to extend the original lease term for each leased Product installed at (i) the same 36-month lease pricing on a month-to-month basis or (ii) if UC commits to a another 12-month term, Supplier agrees to reduce its original 36-month FMV lease pricing for Supplier's Products recited on Attachment 1(A) by twenty-five (25) percent, does not include service and supplies With a 12-month commitment from UC. UC may terminate Products for which the lease terms have been extended by giving Supplier at least thirty (30) days prior written notice without penalty.

12.2.6. Leases are non-cancelable and lease factors, for NEW placements, are subject to change on a quarterly basis with 30 business days advance notice to UC.

12.3. $1 BUY-OUT LEASE OPTION

12.3.1. Supplier agrees to Lease to UC Products recited in Attachment 1(B), if requested by UC, for the three (3), four (4), and five (5) year lease terms in accordance with the requirements set forth in this Agreement. Supplier shall warrant that the Products are new, and owned by Supplier or Supplier's Dealer Partner. Supplier warrants that it will repair or replace defective Products and/or parts, including labor at no cost to UC for ninety (90) days after the installation date.

12.3.2. UC shall pay the Lease payments and other payments, if any, shown on each order to Supplier at its address set forth thereon, or as otherwise directed by Supplier in writing.

12.3.3. No loss or damage except for loss or damage due solely to the negligence of Supplier, shall relieve UC of the obligation to pay any Lease payment or of any other obligation under this Agreement. In the event of loss or damage not attributable solely to the negligence of Supplier, UC, at the option of Supplier shall:

a) Place the Product in good condition and repair: or

b) Replace the Product with like equipment in good condition and repair with clear title in Supplier and subject to all of the terms and conditions of this Agreement: or

c) Pay to Supplier the sum of all Lease payments due and owing at the time of such loss or damage and the fair market value of the equipment from the date of such loss or damage.

Upon replacement of the Product pursuant to subparagraph (b) above or upon Supplier's receipt of the payment provided for in subparagraph (c). UC and/or UC insurer shall be entitled to Supplier's interest in the original Product, for salvage purposes, at its then-current condition and location. AS IS, WHERE IS, WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED.

12.3.4. UC shall have an option to purchase the Product AS IS, WHERE IS, by giving Supplier at least thirty (30) days prior notice of UC intent to purchase at the termination of the term specified in any order or any renewal thereof. The purchase price shall be $1 plus all applicable sales taxes.

12.3.5. At the end of the lease term UC shall either (i) purchase the leased Product for $1 or (ii) have Supplier remove the leased Product.

12.3.6 Leases are non-cancelable and lease factors, for NEW placements, are subject to change on a quarterly basis with 30 business days advance notice to UC.

12.4. 12 MONTH RENTAL OPTION

12.4.1. Supplier agrees to rent to UC Products recited in Attachment 1(C), if requested by UC, in accordance with the requirements set forth in this Agreement.

12.4.2. If requested by UC, Supplier shall rent its Products to UC for a term of less than one (1) year based on the same pricing as one (1) year rental. The minimum rental period is ninety (90) days.

12.4.3. UC may upgrade or downgrade a 12-month rental Product and/or add/remove optional features at any time during the rental period without penalty.

12.4.4. UC may terminate, without penalty, a 12-month rental at anytime with an advanced 90-day written notice to Supplier.

12.4.5. UC shall have the option to extend the original rental term on a month-to-month basis at the same monthly 12-month rental payment.

12.4.6. UC may terminate Products for which the 12-month rental term has been extended by giving Supplier at least thirty (30) days prior written notice without penalty.

12.4.7. 12-month rental units shall be used/reconditioned equipment and based upon Supplier availability.

12.4.8. During the term of the Rental Agreement, Supplier shall provide maintenance service as specified in this Agreement.

12.4.9. If UC purchases any or all pieces of Product(s) within ninety (90) days after installment, 100% of the base rental charges billed and paid during the first ninety (90) days may be applied toward the purchase price. After ninety (90) days UC may apply two (2) percent of the single unit price per month times the number of full months that the Product has been rented towards the purchase price.

A maximum rental conversion credit of 72% of a single unit purchase price will be available to UC for the continuous rental of Supplier Product. If UC converts the rental Product to purchase after ninety (90) days of an installation, the warranty will not be available on the unit

12.5. 36- MONTH RENTAL OPTION

12.5.1. Supplier agrees to rent to UC Products recited in Attachment 1(C), if requested by UC, in accordance with the requirements set forth in this Agreement. Supplier shall warrant that the Products rented for a three (3) year term are new or used/remanufactured, based upon availability, and owned by Supplier or Supplier's Dealer Partner.

12.5.2. For new Products rented by UC, UC may upgrade/downgrade/terminate up to 5% of the total 36-month rental population per year without penalty, provided UC gives Supplier an advanced 90-day written notice. For used/remanufactured Products, UC may upgrade/downgrade/terminate 100% of the 36-month used/remanufactured rental population without penalty, provided UC gives Supplier an advanced 90-day written notice.

12.5.3. UC shall have the option to extend the original rental term as specified in the Attachment 1(C) for each rental Product installed at (i) the same 36-month rental pricing on a month-to-month or (ii) if UC commits to a another 12-month term, Supplier agrees to reduce its original 36-month rental pricing for Supplier's Products recited on Attachment 1(C) by twenty-five (25) percent, does not include service and supplies.

12.5.4. UC may terminate Products for which the 36-month rental term has been extended by giving Supplier at least thirty (30) days prior written notice without penalty.

12.5.5. For Product on thirty-six (36) month rental terms, each piece of Product must be installed and incurring rental and meter charges for a period of time equal to the full term of the Rental Agreement in order to avoid assessment of liquidated damages. Once a Product has been installed and has incurred rental and meter charges for a period of time equal to the full term of the Rental Agreement, then that Product may be canceled at the end of any month without obligation to pay liquidated damages for that piece of Product, provided ninety (90) days advance written notice of cancellation is given to the other party. Except for allowable upgrades as defined in paragraph 12.5.2, if UC cancels this Agreement with respect to any or all Products, then UC agrees to pay Supplier liquidated damages equal to 50% of the remaining rental payments.

12.5.6. During the term of the Rental Agreement, Supplier shall provide maintenance service as specified in this Agreement.

12.5.7. If UC purchases any or all pieces of Product(s) within ninety (90) days after installment, 100% of the base rental charges billed and paid during the first ninety (90) days may be applied toward the purchase price. After ninety (90) days UC may apply two (2) percent of the single unit price per

month times the number of full months that the Product has been rented towards the purchase price.

A maximum rental conversion credit of 72% of a single unit purchase price will be available to UC for the continuous rental of Supplier Product. If UC converts the rental Product to purchase after ninety (90) days of an installation, the warranty will not be available on the unit.

12.6. 12 – MONTH RENTAL COST PER COPY (includes hardware service & supplies)

12.6.1. Supplier agrees to rent to UC Products recited in Attachment 1(D) on a cost per copy basis, if requested by UC, in accordance with the requirements set forth in this Agreement. The Products rented on a cost per copy basis for a one (1) year term and are owned by Supplier or Supplier's Dealer Partner.

12.6.2. If requested by UC, Supplier shall rent its Products on a cost per copy basis to UC for a term of less than one (1) year based on the same pricing as the one (1) year cost per copy pricing. The minimum rental period is ninety (90) days.

12.6.3. UC may upgrade or downgrade a 12-month cost per copy basis plan and/or add/remove optional features at any time during the rental period without penalty.

12.6.4. UC may terminate, without penalty, a 12-month cost per copy plan at anytime with an advanced 90-day written notice to Supplier.

12.6.5. UC shall have the option to extend the original rental term at the same cost per copy pricing.

12.6.6. UC may terminate Products for which the 12-month cost per copy term has been extended by giving Supplier at least thirty (30) days prior written notice without penalty.

12.6.7. 12-month cost per copy units shall be used/reconditioned equipment and based upon Supplier availability.

12.6.8. During the term of the cost per copy basis Agreement, Supplier shall provide maintenance service as specified in this Agreement.

12.6.9. UC must choose the appropriate band and model/configuration based on expected volume and user requirements.

12.6.10. 12-month Cost per Copy plans will be billed monthly on a by model/by unit basis; the bill total will be the low-end volume of the associated band or actual, whichever is greater.

12.7. 36-MONTH RENTAL COST PER COPY (includes hardware, service and supplies)

12.7.1. Supplier agrees to rent to UC Products recited in Attachment 1(D) on a cost per copy basis, if requested by UC, in accordance with the requirements set forth in this Agreement. Supplier shall warrant that the Products rented on a cost per copy basis for a three (3) year term are new or used/remanufactured, based upon availability, and are owned by Supplier or Supplier's Dealer Partner.

12.7.2. For new Products on a 36-month cost per copy program, UC may upgrade/downgrade/terminate up to 5% of the total 36-month cost per copy population per year without penalty, provided UC gives Supplier an advanced 90-day written notice. For used/remanufactured Products on a 36-month cost per copy program, UC may upgrade/downgrade/terminate 100% of the 36-month used/remanufactured cost per copy population without penalty, provided UC gives Supplier an advanced 90-day written notice.

12.7.3. UC shall have the option to extend the original 36-month cost per copy rental term at (i) the same 36-month cost per copy pricing on a month-to-month basis or (ii) if UC commits to a another 12-month cost per copy term, Supplier agrees to reduce its original 36-month cost per copy rental pricing for Supplier's Products recited on Attachment 1(B) by twenty-five (25) percent, does not include service and supplies.

12.7.4. UC may terminate Products for which the 36-month cost per copy rental term has been extended by giving Supplier at least thirty (30) days prior written notice without penalty.

12.7.5. During the term of the cost per copy rental plan, Supplier shall provide maintenance service as specified in this Agreement.

12.7.6. UC must choose the appropriate brand and model/configuration based on expected volume and user requirements.

12.7.7. 36-month Cost per Copy rental plan will be billed monthly on a by model/by unit basis; the bill to total will be the low-end volume of the associated brand or actual, whichever is greater.

12.7.8. Products installed on a 36-month Cost Per Copy basis must be mutually agreed upon between UC and Supplier, and must meet mutually agreed upon between Supplier and UC minimum monthly copy volume requirements for each Product. Supplier agrees to assist UC in conducting a research and analysis to determine the requirements for each Product installation. In the event UC does not agree with Supplier's selection of Product, UC will order Supplier's Products based on the other options available to UC including purchase, lease and rental.

12.7.9. Supplier and UC mutually agree that Supplier's Product(s) installed on a 36-month Cost Per Copy basis will be evaluated for ninety (90) days following the installation date. Supplier's Product(s) that do not meet the monthly minimum copy volume requirements as mutually agreed upon between Supplier and UC, will be converted into rental option or, at UC request, be replaced to another Supplier brand Product that is appropriate for the defined requirement. UC will not be liable to Supplier for any losses incurred by Supplier within first ninety (90) days after installment. After 90-days, UC shall pay the low-end volume of the associated band or the actual meter clicks, whichever is greater for the remainder of the term.

12.7.10. UC shall have the right to convert any of Supplier's Products that meet the monthly minimum copy volume requirements from Cost Per Copy option to rental based on UC request.

13. GENERAL TERMS AND CONDITIONS

13.1. University of California Terms and Conditions University of California Terms and Conditions, Appendices A and F, Supplements 2-5 and Exhibits A-C as attached, are hereby incorporated and shall govern this Agreement.

13.2. Insurance Requirements Supplier shall furnish a certificate of insurance as specified in Appendix A. All certificates shall indicate that the Regents of the University of California has been endorsed as an additional insured. The certificate must be submitted to the Purchasing Department prior to the commencement of services. Certificates of insurance should be delivered to:

University of California Office of the President
Attn: Lesley Clark
Strategic Sourcing
1111 Franklin St. #10329B
Oakland, CA 94607-5200

13.3. Product Certification Supplier hereby certifies and warrants that all products sold to UC under this Agreement:

- Shall be new and genuine;
- Shall be provided to UC in the manufacturer's original packaging unless otherwise requested by UC;
- Shall be manufactured and sold or distributed to the supplier for retail sales in the United States;
- Shall be sold to the supplier from legal and reputable channels, which are understood to be the manufacturer or authorized representatives of the manufacturer;
- Shall not be altered or misbranded within the meaning of the Federal and State laws applicable to such products.

13.4. Auditing Requirements This Agreement and any orders resulting therefrom shall be subject to examination and audit by University and/or State of California for a period of three (3) years after final payment. The examination and audit shall be confined to those matters connected with the performance of the Agreement.

13.5. Warranties Supplier agrees that the Products furnished under this Agreement shall be covered by the most favorable commercial warranties the Supplier gives to any customer for the same or substantially similar Products, and that the rights and remedies so provided are in addition to and do not limit any rights afforded to UC by any other article in this Agreement and any subsequent Agreement. Such warranties will be effective notwithstanding prior inspection and/or acceptance of the Products by UC, and in all cases shall commence upon acceptance of the Products by UC.

13.6. Term of Agreement Unless terminated as provided below, this Agreement shall be effective for a period of five (5) years, commencing May I, 2005 and ending April 30, 2010. UC reserves the right to renew or extend the Agreement for up to three (3) additional one-year periods at the same terms and conditions.

13.7. Termination of Agreement UC may terminate this Agreement for convenience at any time, in whole or in part, in accordance with the terms of Article 4 of University of California Terms and Conditions, Appendix A as attached. In the event of such termination, UC agrees to provide Supplier at least thirty (30) days prior written notice of the effective date of termination and the extent thereof, such termination shall not affect any lease, rented or cost per copy unit that has not fulfilled its appropriate term.

If any termination of this Agreement takes place, Supplier shall extend to UC, upon UC request, an additional ninety (90) day period to properly implement a smooth transition. Fees for the services performed during the additional ninety (90) days will be in good faith negotiated between UC and Supplier.

In the event Supplier cannot or does not perform its obligations, UC reserves the right to terminate the Agreement. If within five (5) working days of receipt of written notice from UC of Supplier's breach of any term or condition of the Agreement, Supplier shall fail to remedy such breach, then UC may at any time, by written notice, terminate the Agreement in whole or in part. Termination under this provision shall not apply to orders received by Supplier prior to the effective date of termination.

13.8. Marketing References Supplier shall not make reference to UC, in any literature, promotional material, brochures, or sales presentations without the express written consent of a duly authorized officer of UC.

13.9. Amendments Any changes to the Agreement requested by either party shall be effective only if mutually agreed in writing by duly authorized representatives of UC and Supplier. This Agreement shall not be modified or amended or any right of a party waived except by such written amendment.

13.10. Failure to Enforce Failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement shall not be construed as effecting any subsequent breach or the right to require performance with respect thereto or to claim a breach with respect thereto.

13.11. Partial Invalidity Any provisions of this Agreement that shall prove to be invalid, void, or illegal shall in no way impair, or invalidate any other provisions hereof, and such other provisions shall remain in full force and effect.

13.12. Governing Law The rights and obligations of the parties, and all interpretations and performance of this Agreement shall be governed in all respects by the laws of the State of California.

13.13. Relationship Supplier shall have no power to bind UC and shall not, under any circumstances, be considered to be an agent, representative or fiduciary of any or all of the preceding. Instead, Supplier is an independent contractor and neither it nor its employees, agents, contractors or subcontractor is or will be an employee, agent or representative of UC during the period it and/or they are performing services under this Agreement. Supplier acknowledges its responsibility for the full payment of the wages or other compensation of, as well as any benefits for employees, agents, contractors or subcontractors engaged by it in the performance of this Agreement

This Agreement, together with the above named instruments, constitute the entire agreement between the UC and Supplier with respect to the subject matter hereof and supersedes all previous negotiations, proposals, commitments, writings, advertisements, publications, and understandings.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written, such parties acting by their officers being thereunto duly authorized.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA	CANON U.S.A., INC.
H. Hisgilov	X [signature]
Signature	Signature
HAGGAI HISGILOV	Steven H. Lane
Name, printed or typed	Name, printed or typed
Executive Director, Strategic Sourcing	Director, Budget/Financial Analysis
Title	Title
11/28/05	November 22, 2005
Date	Date

MASTER ENABLING AGREEMENT

AGREEMENT NUMBER	AM. NO.
70818	1
CONTRACTOR IDENTIFICATION NUMBER	
3351	

THIS AGREEMENT, made and entered into this **December 19, 2008**, in the State of California, by and between the Trustees of the California State University, which is the State of California acting in a higher education capacity, through its duly appointed and acting officer, hereinafter called CSU and

CONTRACTOR'S NAME

Canon U.S.A., Inc. , hereafter called Contractor,

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulation of the University hereinafter expressed, does hereby agree to furnish to the University services and materials as follows:

Original Agreement No. 70818, dated August 01, 2008 is hereby amended to include the following:

~~All products, pricing and services offered by the Contractor shall be made available to the following: all public California educational organizations to include the California Community Colleges (CCC), K-12 Schools Districts and all local government entities at the city and county levels.~~

Except as previously amended and as amended herein, all other terms and conditions of the original Agreement continue in full force and effect.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

UNIVERSITY	CONTRACTOR
Trustees of the California State University	**Canon USA, Inc.**
BY (AUTHORIZED SIGNATURE) DATE	BY (AUTHORIZED SIGNATURE) DATE
SIGNED BY TOM ROBERTS ON 01/07/09	**➢ SIGNED BY GARY BARTH ON 12/29/08**
PRINTED NAME AND TITLE OF PERSON SIGNING **Tom Roberts, Director**	PRINTED NAME AND TITLE OF PERSON SIGNING **Gary Barth, Vice President Government Marketing Division**
DEPT. **Contract Services and Procurement**	ADDRESS **2110 Washington Blvd, Ste. 300, Arlington, VA 22204**

AMOUNT ENCUMBERED BY THIS DOCUMENT	REQUIRED CHARTFIELD DISTRIBUTION
$0.00	**Account Fund Dept ID Program**
TOTAL AMOUNT ENCUMBERED TO DATE	OPTIONAL CHARTFIELD DISTRIBUTION
$0.00	**Class Proj/Grt**

MASTER ENABLING AGREEMENT

AGREEMENT NUMBER	AM. NO.
70818	5
CONTRACTOR IDENTIFICATION NUMBER	
3351	

THIS AGREEMENT, made and entered into this **10th day of March 2011**, in the State of California, by and between the Trustees of the California State University, which is the State of California acting in a higher education capacity, through its duly appointed and acting officer, hereinafter called CSU and

CONTRACTOR'S NAME

Canon USA, Inc. ,hereafter called Contractor,

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulation of the University hereinafter expressed, does hereby agree to furnish to the University services and materials as follows:

Original Agreement No. 70818, dated August 01, 2008 provides for three (3) one year extensions as renewed by University of California Office of the President (UCOP) #708/OP/009.

By this amendment, the CSU has elected to use the second (2nd) year option to extend the agreement through April 30, 2012.

Except as amended herein, all other terms and conditions of the original Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

UNIVERSITY	CONTRACTOR
Trustees of the California State University	**Canon USA, Inc.**
BY (AUTHORIZED SIGNATURE) DATE	BY (AUTHORIZED SIGNATURE) DATE
➢SIGNED BY TOM ROBERTS ON 04/04/11	➢SIGNED BY JUNICHI YOSHITAKE
PRINTED NAME AND TITLE OF PERSON SIGNING **Tom Roberts, Director**	PRINTED NAME AND TITLE OF PERSON SIGNING **Junichi Yoshitake, Senior VP & GM Imaging Systems Group**
DEPT. **Contract Services and Procurement**	ADDRESS **One Canon Plaza, Lake Success, NY 11042**

AMOUNT ENCUMBERED BY THIS DOCUMENT	REQUIRED CHARTFIELD DISTRIBUTION
$0.00	**Account Fund Dept ID Program**
TOTAL AMOUNT ENCUMBERED TO DATE	OPTIONAL CHARTFIELD DISTRIBUTION
$0.00	**Class Proj/Grt**