

CONTRACT #3
RFS # 344.01-00462
Edison # 39234

**Department of Intellectual and
Developmental Disabilities**

VENDOR:
Microsoft Corporation



STATE OF TENNESSEE
DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
CITIZENS PLAZA BUIDLING
400 DEADERICK STREET, 10th Floor
NASHVILLE, TENNESSEE 37243

October 17, 2014

Mr. Lucian Geise, Executive Director
Fiscal Review Committee
8th Floor, Rachel Jackson Building
320 Sixth Avenue, North
Nashville, Tennessee 37243

ATTENTION: Leni Chick

RE: Request for Contract Amendment Review
Microsoft Corporation, Edison Record ID # 39234
Contract Services for Microsoft Premier Support Services and Dedicated Support Engineering

Dear Mr. Geise:

The Department of Intellectual and Developmental Disabilities (DIDD) is submitting proposed Amendment 1 to Edison Record ID # 39234 with Microsoft Corporation for review in accordance with TCA, Section 4-56-107 (b)(1)(B).

DIDD is proposing an amendment to the contract in order to expand the scope of the contract to include a design and code review of its integrated application system and assistance in configuring and integrating Microsoft SharePoint into the application.

The proposed amendment and Non-Competitive Amendment Request is enclosed along with a copy of the base contract, completed "Supplemental Documentation Required for Fiscal Review Committee" form, pre-approved OIR Endorsement Request, and spreadsheets of expenditures and anticipated expenditures under this contract through the ending date of August 31, 2016.

Please let me know if any additional information is required for review of this request. Your assistance for review of this proposed amendment is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Debra K. Payne".

Debra K. Payne
Commissioner

DKP:LI:DD

Enclosures

Supplemental Documentation Required for
Fiscal Review Committee

*Contact Name:	Lance D. Iverson Deputy Commissioner of Fiscal and Administration	*Contact Phone:	253-6710		
*Presenter's name(s):	Lance D. Iverson Deputy Commissioner of Fiscal and Administration <u>Lance.D.Iverson@tn.gov</u> 253-6710 Russell Nicoll Chief Information Officer <u>Russell.Nicoll@tn.gov</u> 741-6632				
Edison Contract Number: (if applicable)	39234	RFS Number: (if applicable)	34401-00462		
*Original or Proposed Contract Begin Date:	9/1/2013	*Current or Proposed End Date:	8/31/2016		
Current Request Amendment Number: (if applicable)	1				
Proposed Amendment Effective Date: (if applicable)	December 17, 2014				
*Department Submitting:	Department of Intellectual and Developmental Disabilities				
*Division:	Administration				
*Date Submitted:	10/17/14				
*Submitted Within Sixty (60) days: If not, explain:	Yes N/A				
*Contract Vendor Name:	Microsoft Corporation				
*Current or Proposed Maximum Liability:	\$509,110.00				
*Estimated Total Spend for Commodities:	N/A				
*Current or Proposed Contract Allocation by Fiscal Year: (as Shown on Most Current Fully Executed Contract Summary Sheet)					
FY: 2014	FY: 2015	FY: 2016	FY:	FY:	FY:
\$ 323,900.00	\$ 0.00	\$ 0.00		\$	\$
*Current Total Expenditures by Fiscal Year of Contract: (attach backup documentation from Edison)					
FY: 2014	FY: 2015	FY: 2016	FY:	FY:	FY:
\$ 323,900.00	\$ 185,210.00	\$ 0.00		\$	\$
IF Contract Allocation has been greater than Contract			N/A		

Supplemental Documentation Required for
Fiscal Review Committee

Expenditures, please give the reasons and explain where surplus funds were spent:			
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:		N/A	
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:		N/A	
*Contract Funding Source/Amount:			
State:		Federal:	
<i>Interdepartmental:</i>	\$509,110.00	<i>Other:</i>	
If "other" please define:		N/A	
If "interdepartmental" please define:		Bureau of TennCare – Intellectual Disabilities Services (318.71)	
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>	
N/A		N/A	
Method of Original Award: <i>(if applicable)</i>		RFP	
*What were the projected costs of the service for the entire term of the contract prior to contract award? How was this cost determined?		\$323,900 was the cost established. This was a non-competitive original contract. Cost determined by vendor quote.	
*List number of other potential vendors who could provide this good or service; efforts to identify other competitive procurement alternatives; and the reason(s) a sole-source contract is in the best interest of the State.		N/A	



OIR Pre-Approval Endorsement Request E-Mail Transmittal

TO : Jane Chittenden, OIR Contracts
Department of Finance & Administration
E-mail: Jane.Chittenden@tn.gov

FROM : Russell Nicoll, Chief Information Office
Department of Intellectual & Developmental Disabilities
Phone: (615) 741-6632
E-mail: Russell.Nicoll@tn.gov

DATE : 10/15/2014

RE : Request for OIR Pre-Approval Endorsement

Applicable RFS# 34401-00462 / **Edison Record ID** 39234

OIR Endorsement Signature & Date:

Mark Bridges
Chief Information Office

10/16/14

NOTE: Proposed contract/grant support is applicable to the subject IT service technical merit.

Office for Information Resources (OIR) pre-approval endorsement is required pursuant to procurement regulations pertaining to contracts with information technology as a component of the scope of service. This request seeks to ensure that OIR is aware of and has an opportunity to review the procurement detailed below and in the attached document(s). This requirement applies to any procurement method regardless of dollar amount.

Please indicate OIR endorsement of the described procurement (with the appropriate signature above), and return this document via e-mail at your earliest convenience.

Contracting Agency	Department of Intellectual and Developmental Disabilities
Agency Contact (name, phone, e-mail)	Russell Nicoll, Chief Information Officer Department of Intellectual & Developmental Disabilities Phone: (615) 741-6632 Russell.Nicoll@tn.gov



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FileNet Interface New Window Help Customize Page http

Invoice Information Payments Voucher Attributes Error Summary
Business Unit: 34401 Invoice No: 9620733369
Voucher ID: 00061044 Invoice Date: 11/25/2013
Voucher Style: Regular Voucher Accounting Date: 12/12/2013 Invoice Receipt Date: 11/25/2013

Vendor ID: 0000070430
ShortName: MICROSOF -001
Location: DALLAS-003
*Address: 10
Advanced Vendor Search
*Pay Terms: 30 Net 30
Basis Date Type: Inv Date
Non Merchandise Summary

Invoice Lines: 323900.00 USD
Currency: USD
Miscellaneous:
Freight:
Total: 323,900.00
Difference: 0.00
Invoice Lines
Line: 1
Amount: 323,900.00000
Unit Price: 323,900.00
Line Amount: 323,900.00
Description: Service DT
UOM: EA
Quantity: 1,0000

Distribution Lines
GL Chart Exchange Rate Statistics Assets
Copy Down Line Merchandise Amt Quantity *GL Unit Fund Dept Account Location CF Program User Code PC Bus U



[Summary](#) [National Documents](#) [Invoice Information](#) [Payments](#) [Voucher Attributes](#) [Error Summary](#) [FileNet Interface](#)
 Contract: 509
 Search by:

Buys Data Unit: 34401 **Invoice No.:** 9620733369
Requisitions: 00061044 **Invoice Date:** 11/25/2013
Voucher ID: 00061044 **Invoice Receipt Date:** 11/25/2013
My Favorites: Regular Voucher **Invoice Receipt Date:** 11/25/2013
Total Amount: 323,900.00 ***Pay Terms:** 30 **Schedule Payme**
Vendor Name: Microsoft Services

Payment Information
Payment: 1 **Gross Amount:** 323,900.00 **Payment Inquiry**
***Remit to:** 0000070430 **Discount:** 0.00 **Discount Denied**
Location: DALLAS-003 **Discount:** 0.00 **Late Charge**
***Address:** 10 **Scheduled Due:** 12/25/2013 **Express Payment**
 Microsoft Corp **Net Due:** 12/25/2013 **Payment Comments(0)**
 Bank of America Dall **Discount Due:** 12/19/2013 **Holiday/Currency**
 PO Box 844510 **Accounting Date:** 12/19/2013
 Dallas, TX 75284-4510

Payment Options
***Bank:** 00064 **Pay Group:** RG **Messages**
***Account:** 0538 ***Handling:** Not Applicable **Hold Payment**
***Method:** CHK ***Netting:** Not Applicable **Separate Payment**
L/C ID: **Hold Reason:**
Message: Payment for Invoice # 9620733369
 Message will appear on remittance advice.

Schedule Payment
***Action:** Schedule Payment **Payment Date:** 12/19/2013
Pay: **Reference:** 0003204550

Amendment Request

Route a completed request, as one file in PDF format, via e-mail attachment sent to: Agsprs.Agsprs@tn.gov

APPROVED

CHIEF PROCUREMENT OFFICER

DATE

Request Tracking #	34401-00462	
1. Procuring Agency	Department of Intellectual and Developmental Disabilities (DIDD)	
2. Contractor	Microsoft Corporation	
3. Contract #	39234	
4. Proposed Amendment #	1	
5. Edison ID #	70430	
6. Contract Begin Date		9/1/2013
7. Current Contract End Date – with ALL options to extend exercised		8/31/2016
8. Proposed Contract End Date – with ALL options to extend exercised		8/31/2016
9. Current Maximum Contract Cost – with ALL options to extend exercised		\$ 323,900.00
10. Proposed Maximum Contract Cost – with ALL options to extend exercised		\$ 509,110.00
11. Office for Information Resources Pre-Approval Endorsement Request – information technology service (N/A to THDA)	<input type="checkbox"/> Not Applicable	<input checked="" type="checkbox"/> Attached
12. eHealth Pre-Approval Endorsement Request – health-related professional, pharmaceutical, laboratory, or imaging	<input checked="" type="checkbox"/> Not Applicable	<input type="checkbox"/> Attached
13. Human Resources Pre-Approval Endorsement Request – state employee training service	<input checked="" type="checkbox"/> Not Applicable	<input type="checkbox"/> Attached
14. Explanation Need for the Proposed Amendment		
<p>DIDD is proposing an amendment to the contract in order to expand the scope of the contract to include a design and code review of its integrated application system (\$85,550) and assistance in configuring and integrating Microsoft SharePoint into the application (\$99,660).</p>		

15. Name & Address of the Contractor's Principal Owner(s)

– NOT required for a TN state education institution

Gunnar Podlesak
 Microsoft Corporation
 200 E Randolph, Suite 200
 Chicago, IL 60601
 gunnar@microsoft.com
 Phone: 312-920-5702
 Fax: 425-708-6200

16. Evidence Contractor's Experience & Length Of Experience Providing the Goods or Services

Microsoft is recognized as a world leader in software development and technical consulting services and is currently headquartered in Redmond, Washington.

17. Efforts to Identify Reasonable, Competitive, Procurement Alternatives

Microsoft is the sole proprietor of the software and services used to develop DIDD's single integrated solution, and therefore best positioned to provide a thorough and accurate review of the design and configuration of the system. In addition, the Application Programming Interface (API) tool needed by DIDD to properly manage security of its integrated SharePoint environment is only available through Microsoft Consulting Services.

18. Justification

DIDD has invested both time and money into the development of a single integrated database solution to replace its outdated computer information systems. This project is a high risk project and includes technology that is new to the State's already complex technical environment. Because of the State's lack of knowledge and expertise in working with these solutions, it is in the best interest of the project to conduct an independent design and code review of the solution prior to taking ownership. In addition, DIDD plans to utilize Microsoft SharePoint as the document repository for all supplemental information stored in the system electronically. In order to fully integrate SharePoint into the final solution and effectively manage security rights to those documents, DIDD requires support from Microsoft which can only be obtained through a Microsoft Consulting Services engagement.

Agency Head Signature and Date – MUST be signed by the ACTUAL agency head as detailed on the current Signature Certification. Signature by an authorized signatory is acceptable only in documented circumstances

Shelba K Payne

10/17/14



CONTRACT AMENDMENT COVER SHEET

Agency Tracking # 34401-00462	Edison ID 39234	Contract # 39234	Amendment # 1
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Contractor Legal Entity Name Microsoft Corporation	Edison Vendor ID 70430
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Amendment Purpose & Effect(s)
Increase funding to support additional Premier Support Hours and Revise Scope of Services to add Consultant Services

Amendment Changes Contract End Date: YES NO **End Date:** 8/31/2016

TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A): \$185,210.00

Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2014			\$323,900.00		\$323,900.00
2015			\$185,210.00		\$185,210.00
2016			0.00		0.00
TOTAL:			\$509,110.00		\$509,110.00

American Recovery and Reinvestment Act (ARRA) Funding: YES NO

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

Melinda Lanza 10/16/14
Melinda Lanza 253-3166

CPO USE

Speed Chart (optional)	Account Code (optional)
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**AMENDMENT ONE
OF CONTRACT 39234**

This Amendment is made and entered by and between the State of Tennessee, Department of Intellectual and Developmental Disabilities, hereinafter referred to as the "State" or "DIDD" and Microsoft Corporation, hereinafter referred to as the "Contractor." For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. The following is added as Contract Section A.4.
 - A.4. The Contractor shall provide SharePoint integration services to DIDD for assistance with the installation, configuration and integration of SharePoint 2013 as part of the TITAN project. The Contractor's resource(s) will provide the following types of assistance at the direction of the DIDD:
 - a. Provide guidance in Infrastructure reviews;
 - b. Provide Architecture guidance and assistance in implementing and installing SharePoint 2013 and its required components;
 - c. Assist with the integration of SharePoint 2013 into the TITAN project utilizing proprietary software tools available through Microsoft Consulting Services;
 - d. Provide advice and Microsoft recommended practices regarding SharePoint 2013 architecture and operational use; and
 - e. Assist with knowledge transfer to provide operational continuity.
2. The following is added as Contract Section A.5.
 - A.5. The Contractor shall provide consultant services for evaluation of DIDD's business and solution requirements.
 - a. The Contractor shall evaluate relevant project artifacts to establish an understanding of the current status of the TITAN Project as well as the customer's business and solution requirements, evaluate the currently implemented solution against recommended practices, and provide a summary of project and solution related recommendations based on Contractor's findings.
 - (1) Business/Project Review – The Contractor shall review and assess all relevant project artifacts including but not limited to the project plan, functional requirements document, fit/gap analysis, functional and technical designs, etc. To complete the business/project review, the Contractor reserves the right to interview the business and/or project stakeholders for any clarification on project artifacts reviewed.
 - (2) Solution Review – The Contractor shall review and assess the overall solution including its configurations, customizations, integrations, and system settings. The Contractor may shadow users operating within the production system and, if necessary, conduct a "hands on" review of the system in order to validate its solution architecture.

(3) Findings and Recommendations Report – The Contractor shall Develop a findings and recommendations report that weighs the project and business objectives against the solution implemented within the context of the Contractor’s expertise and recommended practices. The resulting findings and recommendations report may include both improvements to the current DIDD solution and/or changes to the underlying architecture. The Contractor cannot confirm that their discovery, findings or recommendations will be directly addressable within the existing CRM implementation. The contractor will coordinate their efforts with the DIDD, the Microsoft Premier Support team for the State, and any other parties directly engaged by, and at the direction of the DIDD but cannot engage independently with any third-party organizations or vendors which have provided extensions to DIDD on their behalf.

b. The Contractor’s staff shall work alongside DIDD staff and shall transfer knowledge to DIDD staff throughout the term of this Contract.

c. The Contractor shall provide the DIDD with a report of findings and recommendations upon completion of work described in Section A.5.a. of this Contract.

(1) Work Product Acceptance Process: The Contractor shall submit Work Products to the DIDD for review and approval at specified milestones as mutually agreed upon between the Contractor and the DIDD throughout the term of this Contract. Within three (3) business days from the date of submittal, or alternate time mutually agreed upon in writing between the Contractor and the DIDD, the DIDD shall either:

i. accept the Work Product by signing, dating, and returning the Work Product Acceptance Form (provided by the Contractor), or

ii. provide a written notice rejecting the Work Product, including a single and complete list describing every reason for your rejection.

Work Products shall be deemed to be accepted unless the DIDD provides a written rejection notice as described above. The State’s use or partial use of a Work Product will constitute acceptance of that Work Product.

(2) Work Product Correction: The Contractor will correct problems with a Work Product that are identified in the written rejection notice, as described above, and within the scope of the Work Product, after which the Work Product will be deemed accepted.

3. Contract Section C.1. is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed five hundred nine thousand, one hundred ten dollars, and no cents (\$509,110.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

4. Contract Section C.3. is deleted in its entirety and replaced with the following:

C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology described in Attachment 1, and Attachment 4 of this Contract in a total amount not to exceed the Contract Maximum Liability established in Section C.1. of this Contract.

5. Contract Attachment 4, attached hereto is added as a new attachment.

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective December 17, 2014. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

MICROSOFT CORPORATION:

SIGNATURE

DATE

PRINTED NAME AND TITLE OF SIGNATORY (above)

DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES:

DEBRA K. PAYNE, COMMISSIONER

DATE

**Microsoft Premier Support Services Description Schedule:
Fee and Named Contacts**

(Microsoft Affiliate to complete)
Premier Support Services Description Number
 (Microsoft Affiliate to complete)
Schedule Number

001414065
ADD_001414065

Customer Name: **TN-DIDD**

This Schedule is made pursuant to the Microsoft Premier Support Services Description identified above (the "**Services Description**"). The terms of the Services Description and applicable Exhibits are incorporated herein by this reference and by accepting Our performance of Services under this Schedule You agree to be bound by these terms. Any terms not otherwise defined herein will assume the meanings set forth in the Agreement and the Services Description. Regardless of any terms and conditions contained in any purchase order, the terms of this Schedule apply.

Term
 This Schedule will commence on 08/12/2014 (the "Commencement Date") and will expire on 11/30/2016 (the "Expiration Date").

1. PREMIER SUPPORT SERVICES AND FEES. The quantities listed in the table below represent the amount of Services that You have pre-purchased for use during the term of this Schedule and applicable fees.

a. Fee Summary

Services Summary	Total Price (US\$)
Microsoft Premier Hours	\$33,450
Microsoft Consulting Hours	\$52,100
Total Amount Due	\$85,550

b. Services by Support Location

Both Customer and Microsoft understand that there may be travel requirements for performing services under this Services Description. For any travel expenses that may arise in connection with this SD, Customer agrees that any travel and other expenses incurred by Microsoft may be decremented from the Support Assistance hours.

Country : United States
<ul style="list-style-type: none"> • Support Account Management (estimated at 60) • Up to 90 hours for Support Assistance* • Up to 24 hours Architectural Consultant • Up to 12 hours Engagement Manager • Up to 136 hours Senior Consultant • Unlimited Access to Premier Online Services

* All registration requirements for Workshops and Events must be completed by You no later than 60 days prior to the expiration date of this Fee and Named Contacts Schedule(s).

2. MICROSOFT CONTACT

Microsoft Contact: Contact for questions and notices about this Schedule and the Services Description:

Microsoft Contact Name: Gunnar Podlesak
Address: Microsoft Corporation 200 E Randolph, Suite 200 Chicago, IL 60601
gunnar@microsoft.com
Phone: 312-920-5702
Fax: 425-708-6200

3. CUSTOMER NAMED CONTACTS

Existing contacts will be carried forward.

Microsoft Premier Support Services Description Exhibit: Consulting Services

(Microsoft Affiliate to complete)
Premier Support Services Description Number

001414065

MCS Work Order Number

USSLGE-C14081954

This Exhibit is made pursuant to the Microsoft Premier Support Services Description identified above (the "Services Description"). The terms of the Services Description are incorporated herein by this reference. Any terms not otherwise defined herein will assume the meanings set forth in the Services Description.

Place of Performance/Project Point of Contact (Customer Satisfaction Contact)

Name of Customer	Tennessee Department of Intellectual and Developmental Disabilities	Project leader (This person is your point of contact for all service-related matters under this work order.) Russell Nicoll		
Street Address	Citizens Plaza Building 400 Deaderick Street 9th Floor	Contact E-mail Address	russell.nicoll@tn.go	
City	Nashville	State/Province	Phone	615-741-6632
		TN		
Country		Postal Code	Fax	
		37243		

Term

This Exhibit will commence on effective date herein and will expire contemporaneously with the Services Description or the date we conclude the Services, whichever is later (the "Expiration Date").

By signing below the parties acknowledge and agree to be bound to the terms of the Services Description and this Exhibit.

Customer	Microsoft Affiliate
Name of Customer (please print) Tennessee Department of Intellectual and Developmental Disabilities	Name Microsoft Corporation
Signature	Signature
Name of person signing (please print)	Name of person signing (please print) David T. Gallagher
Title of person signing (please print)	Title of person signing (please print) Director of Contracts
Signature date	Effective date

1. **Services.** We will perform the services identified below for you. Any dates provided are estimates only. Most of the services will be performed at the place of performance identified on the cover page or at such other facility as you specify in writing. Some services may be performed off-site at our facilities. All off-site services will be coordinated with your project leader for the services. Because we are performing the services under your direction, based on an estimated period of performance and fees, we do not warrant that any services deliverables will be completed or be satisfactory to you within the estimated period or fees.

Description of Services

1.1 Project Objectives and Scope 1.1 Objectives

Microsoft is engaged with the customer to provide the following services:

- Evaluate relevant project artifacts to establish an understanding of the engagement as well as the customer's business and solution requirements
- Evaluate the currently implemented solution against recommended practices
- Provide a summary of project and solution related recommendations based on findings

1.2 Areas Within Scope

Business/Project Review

- Review and assess all relevant project artifacts including but not limited to the project plan, functional requirements document, fit/gap analysis, functional and technical designs, etc. To complete the business/project review, Microsoft reserves the right to interview the business and/or project stakeholders for any clarification on project artifacts reviewed.

Solution Review

- Review and assess the overall solution including its configurations, customizations, integrations, and system settings. To complete the solution review, Microsoft reserves the right to shadow users operating within the production system and, if necessary, to conduct a "hands on" review of the system in order to validate its solution architecture.

Findings and Recommendations Report

- Develop a findings and recommendations report that weighs the project and business objectives against the solution implemented within the context Microsoft expertise and recommended practices.

The resulting findings and recommendations report may include both improvements to the current state solution and/or changes to the underlying architecture. We cannot confirm that all our discovery, findings or recommendations will be directly addressable within the existing CRM implementation.

Microsoft will coordinate our efforts with the customer, the Microsoft Premier Support team for the customer, and any other parties directly engaged by, and at the direction of, the customer. We cannot engage independently with any third-party organizations or vendors which have provided extensions to the customer on their behalf.

1.3 Training/Knowledge Transfer

Informal knowledge transfer will be provided throughout the Engagement Review. Informal knowledge transfer is defined as Customer's staff working alongside Microsoft's staff.

1.4 Testing

No formal testing will be conducted by Microsoft during this engagement.

1.5 Areas Out of Scope

Any area that is not explicitly listed in section 1.2 as "within scope" is out of scope for this engagement. The areas that are out of scope for this engagement include, but are not limited to, the following:

- Detailed analysis of project governance or work products
- Adjustments to project work products or implementation methodology
- Scalability, performance testing and/or performance optimization analysis
- Build automation and continuous integration
- Performance and monitoring leading practices
- Build automation or continuous integration
- Implementation, integration, customizations or upgrade of any non-Microsoft recommended ISV or 3rd Party add-on products
- Code or configuration changes

1.6 Approach

The Microsoft team will leverage our proven SureStep methodology to drive the Engagement Review effort. However, specific Engagement Review activities will be prioritized based on the customer's guidance.

1.7 Timeline

This assistance engagement will be time boxed at three (3) weeks and the start date will be subject to the execution of the associated Work Order and resource availability.

1.8 Key Work Products

1.8.1 Given the nature of the engagement, Microsoft will be producing the following work product that will be provided to the customer at the end of the engagement.

Work Product Name	Description
Findings and Recommendations Report	<ul style="list-style-type: none">• This work product will comprise the findings and recommendations of the completed Engagement Review.

1.8.2 Work Product Acceptance Process

At specified milestones throughout the project, we will submit completed project Work Products for your review and approval. Within 3 business days from the date of submittal, you must either

- accept the Work Product by signing, dating, and returning the Work Product Acceptance Form (see Exhibit section), or
- provide a written notice rejecting the Work product, including a single and complete list describing every reason for your rejection.

Work Products shall be deemed accepted unless you provide a written rejection notice as described above. Your use or partial use of a Work Product will constitute acceptance of that Work Product.

Microsoft will correct problems with a Work Product that are identified in the written rejection notice, as described above, and within the scope of the Work Product, after which the Work product will be deemed accepted. Problems that are outside the scope of a Work Product, and feedback provided after a Work Product has been deemed accepted will be addressed as a potential change of scope pursuant to the Change Management process outlined in this Work Order.

1.9 Change Management Process

During the project, either party may request, in writing, additions, deletions, or modifications to the services described in this WO ("change request"). For all change requests, regardless of origin, Microsoft shall submit to Customer Microsoft's standard Change Request Form, which shall describe the proposed change(s) to the project, including the impact of the change(s) on the project scope, schedule, fees, and expenses.

For all change requests which Customer originates, Microsoft shall have a minimum of 2 business days from receipt of the change request to research and document the proposed change, and prepare the Change Request Form.

Customer shall have 2 business days from your receipt of a completed Change Request Form to accept the proposed change(s) by signing and returning the Change Request Form. If Customer does not sign and return the Change Request Form within the time period prescribed above, the change request will be deemed rejected and Microsoft will not perform the proposed change(s).

No change to this project shall be made unless it is requested and accepted in accordance with the process described in this section. Microsoft shall have no obligation to perform or commence work in connection with any proposed change until a Change Request Form is approved and signed by the designated Project Managers from both parties.

1.10 Project Completion

The project will be considered complete when any of the following conditions is met:

1. All of the Work Products identified within this Work Order and any Change Requests accepted pursuant to the Change Management Process defined in this document, delivered and accepted or deemed accepted; or,
2. The fee provisions of the Work Order have been met; or
3. This Work Order is terminated pursuant to the provisions of the agreement.

1.11 Microsoft Project Roles and Responsibilities

Role Responsibilities	Project Commitment
Microsoft Engagement Manager	Responsible for deliverable quality and Customer's overall satisfaction with Microsoft's services - Single point of contact for issues, personnel matters, contract extensions, and MCS project status Part Time (up to 8 hours per week)
Microsoft Architect	Responsible for technical oversight and verifying whether Microsoft recommended practices are followed. Part Time (up to 8 hours per week)

Microsoft Senior Consultant

Provide advice and guidance to the customer CRM team as detailed above in the scope section • Primary delivery resource for the engagement Full Time (40 hrs per week)

1.12 General Customer Responsibilities and Project Assumptions

1.12.1 General Customer Responsibilities

Delivery of Microsoft's services depends upon, among other things, the following:

- Customer's involvement in all aspects of the services
- Customer's ability to provide accurate and complete information, as needed
- Customer's timely and effective completion of the responsibilities, as identified herein
- The accuracy and completeness of the Assumptions, identified below
- Timely decisions and approvals by Customer's management

1.12.2 Project Assumptions

The Services, fees, and delivery schedule for this project are based on the following assumptions:

- This engagement will be time boxed to three (3) weeks and any additional effort would require the execution of a change order
- All required customer resources will be made available in a timely manner
- Access to all environments, applications, and tools will be provided to the delivery resource from the start of the engagement
- Product licenses (Microsoft or non-Microsoft) will not be provided under this Work Order. You are responsible for acquiring all necessary product licenses required as a result of Work Order.

2. **Fees.** You will pay the following hourly rates and any reasonable out of pocket travel and living expenses (if any) for the individuals assigned. We reserve the right to utilize whichever labor categories in whatever quantities we determine, in our sole discretion, are appropriate to perform the services. Any total fee and labor hours stated are estimates only. The fees do not include fees for products. We will not invoice you for these consulting services. Rather, any of the following fees for consulting services performed and expenses incurred shall be decremented against pre-paid funding from Premier Support Services Description #001414065.

(See next page for estimated hours)

Standard Hourly Rates

Resource	Units	Description	Published Hourly Rates	Fully-Burdened Rates	Proposed Price
Architectural Consultant *	24	Hours	\$288.00	\$327.00	\$7,848.00
Engagement Manager*	12	Hours	\$259.00	\$299.00	\$3,588.00
Senior Consultant*	136	Hours	\$259.00	\$299.00	\$40,664.00
	172	Total Estimated Hours			\$52,100.00
Estimated Travel Cost:					\$0.00
Estimated Total					\$52,100.00

* Per the Tennessee Department of Intellectual and Developmental Disabilities (TN-DIDD) request, the totals referenced above were calculated using "Fully-Burdened Rates" for the resource identified. The services component of these fully-burdened rates are equal to "Published Hourly Rates" from Microsoft's Public Sector Services Published Price List for FY15. These fully-burdened rates, provided at the request of TN-DIDD, are in compliance with all TN-DIDD procurement policies, laws, rules and regulations. Accordingly, when fully-burdened rates are utilized, Microsoft will not independently charge TN-DIDD for any expenses (including travel and lodging) associated with the delivery of those services.

3. **Staffing Impacts.** We have committed professional staff to perform the services described herein based on the dates set forth above. Given this commitment, you agree to provide us no less than ten (10) business days' notice of any anticipated delay of the commencement date, regardless of cause. If you fail to provide such notice, we reserve the right to invoice you for an amount reflecting the actual amount of time our consultants cannot be engaged as a result or an amount equal to 40 hours of their time at their normal billing rate, whichever is less. In the alternative, and at our sole discretion, we may elect to re-assign our professional staff to other projects for Microsoft customers and re-staff your project when possible. If this occurs, we cannot guarantee when staff will again be available for your project.

Further, the Agreement requires you to provide us with at least 30 days' notice of any intent to cancel this work order. If you cancel this work order without providing the required notice, we will make reasonable efforts to implement a 2-4 week transition period to conduct knowledge transfers, risk identification, ramp down and other associated tasks for which you agree to continue to pay our hourly rates and any reasonable out of pocket travel and living expenses. If you instruct us not to implement

such a transition period, we reserve the right to invoice you for the time our professional staff would have remained engaged had you provided the notice required by your contract or an amount equal to 40 hours of our consultants' time at their normal billing rate, whichever is less.

4. **Your responsibilities.** In addition to your responsibilities described in Section 1, "Services", above, you will, at your expense, provide us the following:

- a. access to all necessary on-site facilities, including office space, telephones, analogue modems or PPTP, computer equipment, internet access, and test and monitoring equipment;
- b. access to and copies of relevant technical information;
- c. access to and sufficient time with your technical, management, and other personnel as necessary for us to perform the services; and
- d. a project leader as your primary point of contact with us and to provide technical direction to our personnel performing the services.

5. **Ownership and license.**

- a. **Products and fixes.** All products and fixes provided pursuant to this work order shall be licensed according to the terms of the license agreement packaged with or otherwise applicable to such product. You are responsible for paying any licensing fees associated with products. "Product" means any computer code, web-based services, product-related solutions or materials comprising commercially released, pre-release or beta products (whether licensed for a fee or no charge) and any derivatives of the foregoing we make available to you for license which is published by us, our affiliates, or a third party. "Fixes" means product fixes that we either release generally (such as commercial product service packs) or that we provide to you when performing services (such as workarounds, patches, bug fixes, beta fixes and beta builds) and any derivatives of the foregoing.
- b. **Pre-existing work.** All rights in any computer code or materials (other than products or fixes) developed or otherwise obtained independently of the efforts of a party under this work order ("pre-existing work") shall remain the sole property of the party providing that pre-existing work. During the performance of the services for this work order, each party grants to the other party (and our contractors as necessary) a temporary, non-exclusive license to use, reproduce and modify any of its pre-existing work provided to the other party solely for the performance of such services. Upon payment in full, we grant you a non-exclusive, perpetual, fully paid-up license to use, reproduce and modify (if applicable) our pre-existing work in the form delivered to you as part of the service deliverables for your internal business operations. "Service deliverables" means any computer code or materials (other than products or fixes) that we leave with you at the conclusion of our performance of service(s). Your licenses to our pre-existing work is conditioned upon your compliance with the terms of the agreement and this work order and the perpetual license applies solely to our pre-existing work that we leave to you at the conclusion of our performance of the services.
- c. **Developments.** Upon payment in full, we assign you joint ownership in all rights in any computer code or materials (other than products, fixes or pre-existing work) developed by us (or in collaboration with you) and provided to you in the course of performance of this work order ("developments"). "Joint ownership" means each party has the right to independently exercise any and all rights of ownership now known or hereafter created or recognized, including without limitation the rights to use, reproduce, modify and distribute the developments for any purpose whatsoever, without the need for further authorization to exercise any such rights or any obligation of accounting or payment of royalties, except you will only exercise your rights for your internal business operations and you will not resell or distribute the developments to any third party. These use restrictions shall survive termination or expiration of this work order or the agreement. Each party shall be the sole owner of any modifications that it makes based upon the developments.

d. **Affiliates rights.** You may sublicense the rights to the service deliverables granted hereunder to your affiliates, but your affiliates may not further sublicense these rights. Any sublicensing of the service deliverables to your affiliates as permitted by this Section 4 must be consistent with the license terms in the agreement and this work order. If "affiliate" is not defined in the agreement, it means (i) if you are a commercial entity, legal entities that you own, which own you, or which are under common ownership with you; and (ii) if you are a state or local government agency, any government agency, department, instrumentality, division, unit or other office of your state or local government that is supervised by or is part of you, or which supervises you or of which you are a part, or which is under common supervision with you; together with, as mandated by law, any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality located within your state's jurisdiction and geographic boundaries; provided that a state and its affiliates will not, for purposes of this definition, be considered to be affiliates of the federal government and its affiliates. "Ownership" means more than 50% ownership.

e. **Open source license restrictions.** Because certain third party license terms require that computer code be generally (i) disclosed in source code form to third parties; (ii) licensed to third parties for the purpose of making derivative works; or (iii) redistributable to third parties at no charge (collectively, "excluded license terms"), the license rights that each party has granted to any computer code (or any intellectual property associated therewith) do not include any license, right, power or authority to incorporate, modify, combine and/or distribute that computer code with any other computer code in a manner which would subject the other's computer code to excluded license terms.

Furthermore, each party warrants that it will not provide or give to the other party computer code that is governed by excluded license terms.

f. **Reservation of rights.** All rights not expressly granted in this Section 4 are reserved.

6. **Cost or Pricing Data.** We will not, under any circumstances, accept work that would require the submission of cost or pricing data.

7. **You and we agree and acknowledge that Microsoft's performance of consulting services are in furtherance of the Premier Support Services Description #001414065 and in full compliance with all applicable procurement rules, regulations and solicitations standards.**

Microsoft Consulting Services Work Order

<i>(For Microsoft Internal Purposes Only)</i> MCS (WO Type 1 - lite)- (Public Sector)	Work Order Number: USSLGE-C14063916
	Project Code: 6-ELHSDGZLH
	Client ID: U6270911
	Vertical Industry: SLGE
	Customer Purchase Order Number:

This work order is made pursuant to the Microsoft Master Services Agreement #U6270911, (the "agreement") effective as of July 30, 2009, by and between the undersigned customer ("you") and the undersigned Microsoft affiliate ("we," "us," or "our"). The terms of the agreement are incorporated herein by this reference. Any terms not otherwise defined herein will assume the meanings set forth in the agreement. This work order is comprised of this cover page and the work order terms below, which are incorporated herein by this reference.

<i>Customer Invoice Information</i>			
Name of Customer Tennessee Department of Intellectual and Developmental Disabilities		A/P Contact Name (This person receives invoices under this work order.) James Prestridge	
Street Address 275 Stewarts Ferry Pike		Contact E-mail Address	James.prestridge@tn.gov
City Nashville	TN	Phone	(615) 391-9819
Country USA	Postal Code 37214	Fax	
<i>Invoicing</i>			
We will invoice you according to our fiscal monthly billing schedule for services performed and expenses incurred during the previous period. Our invoices for payment will be directed to your representative for payment at the address shown above.			
Customer must Select One:			
<input type="checkbox"/> Customer requires Purchase Order for payment of invoice: Please indicate Purchase Order No. here and send actual PO to Microsoft. _____ Any terms and conditions contained in any purchase order shall not apply.			
<input type="checkbox"/> Customer does not require Purchase Order for payment of invoice. Provide Accounts Payable Name and Phone No. _____			
Source to confirm Per Diem limits – hotel, rental car, meals, etc. (if applicable):			
Contact Name:	Contact E-mail address:	Contact phone No.:	
Web site address:			
<i>Period of Performance</i>			
Services under this work order will commence on or around August 4, 2014. This work order will expire on December 26, 2014. In order for us to continue work after the expiration date, you and we must agree in writing to a new work order or an amendment to this work order identifying the new expiration date and any other terms upon			

which you and we agree.

Payments to Microsoft should be made to the following, include reference to our invoice number:
By Check: Microsoft Enterprise Services, P.O. Box 844510, Dallas, TX 75284-4510, or if by overnight delivery, Microsoft Enterprise Services, Lockbox #844510, 1401 Elm Street, Fifth Floor, Dallas, TX 75202
By Wire: Microsoft Enterprise Services #844510, Acct 3750825354/ ABA#0260-0959-3, Bank of America, N.A.

Attachments required with Invoice (Status Reports/Time /Expense Breakouts, Other): N/A

Place of Performance		
Name of Customer	Project leader (This person is your point of contact for all service-related matters under this work order.)	
Same as above		
Street Address	Contact E-mail Address	
City	State/Province	Phone
Country	Postal Code	Fax

By signing below the parties acknowledge and agree to be bound to the terms of the agreement and this work order.

Customer	Microsoft Affiliate
Name of Customer (please print) Tennessee Department of Intellectual and Developmental Disabilities	Name Microsoft Corporation
Signature	Signature
Name of person signing (please print)	Name of person signing (please print) David T. Gallagher
Title of person signing (please print)	Title of person signing (please print) Director of Contracts
Signature date	Effective date

1. **Services.** The services we will perform for you are staff augmentation services, to perform activities as described below. The "Service deliverables" means computer code and related materials, other than fixes, we provide to you when performing services. Most of the services will be performed at the place of performance identified on the cover page or at such other facility as you specify in writing. Some services may be performed off-site at our facilities. All off-site services will be coordinated with your project leader for the services.

We will assist Tennessee Department of Intellectual and Developmental Disabilities (DIDD) with SharePoint 2013 assistance identified below on a time and materials basis, **up to 330 total hours** as identified in the Fee and Named Contact Schedule. Tasks are as described below.

SharePoint 2013 - Tasks. Microsoft will provide a resource to provide infrastructure and process assistance with the installation, configuration and integration of SharePoint 2013 as part of the TITAN project. The Microsoft resource(s) will provide the following types of assistance at the direction of the Metro:

- i. Provide guidance in Infrastructure reviews
- ii. Architecture guidance and assistance in implementing and installing SharePoint 2013 and its required components
- iii. Assist with the integration of SharePoint 2013 into the TITAN project
- iv. Provide advice and Microsoft recommended practices regarding SharePoint 2013 architecture and operational use
- v. Assist with knowledge transfer to provide operational continuity

2. **Fees.** You will pay the following hourly rates and any reasonable out of pocket travel and living expenses (if any) for the individuals assigned. We reserve the right to utilize whichever labor categories in whatever quantities we determine, in our sole discretion, are appropriate to perform the services. Any total fee and labor hours stated are estimates only. The fees do not include fees for products. Unless otherwise specified in the invoice, you will pay us within 30 calendar days of the date of our invoice.

(See table on following page)

Resource	Units	Description	Rate	Fully Burdened Rates	Proposed Cost
Architectural Consultant	24	Hours	\$291.00		\$7,632
Principal Consultant	0	Hours	\$278.00		\$0
General Manager	0	Hours	\$295.00		\$0
Practice Manager	0	Hours	\$274.00		\$0
Engagement Manager	30	Hours	\$263.00	\$302.00	\$9,060
Project Manager	0	Hours	\$263.00		\$0
Senior Consultant	300	Hours	\$263.00	\$302.00	\$90,600
Consultant	0	Hours	\$238.00		\$0
Associate Consultant	0	Hours	\$210.00		\$0
Technician V	0	Hours	\$250.00		\$0
Technician IV	0	Hours	\$232.00		\$0
Technician III	0	Hours	\$206.00		\$0
Technician III	0	Hours	\$180.00		\$0
Technician I	0	Hours	\$155.00		\$0
Technician	0	Hours	\$129.00		\$0
Associate Technician	0	Hours	\$103.00		\$0
	330	TOTAL HOURS			\$99,660
Estimated Travel Cost					\$0
Estimated Total					\$99,660.00

* Per TN Department of Intellectual and Developmental Disabilities' request, the totals referenced above were calculated using fully burdened rates for the Senior Consultant and Engagement Manager. The services component of these fully-burdened rates are equal to "Published Hourly Rates" from Microsoft's Public Sector Services Published Price List for FY15. These fully-burdened rates, provided at the request of TN Department of Intellectual and Developmental Disabilities, are in compliance with all TN Department of Intellectual and Developmental Disabilities' policies, laws, rules and regulations.

3. **Your responsibilities.** In addition to your responsibilities described in Section 1, "Services", above, you will, at your expense, provide us the following:
- a. access to all necessary on-site facilities, including office space, telephones, analogue modems or PPTP, computer equipment, internet access, and test and monitoring equipment;
 - b. access to and copies of relevant technical information;
 - c. access to and sufficient time with your technical, management, and other personnel as necessary for us to perform the services; and
 - d. a project leader as your primary point of contact with us and to provide technical direction to our personnel performing the services.

4. ***Cost or Pricing Data.*** We will not, under any circumstances, accept work that would require the submission of cost or pricing data.



GENERAL ASSEMBLY OF THE STATE OF TENNESSEE
FISCAL REVIEW COMMITTEE

320 Sixth Avenue, North – 8th Floor
NASHVILLE, TENNESSEE 37243-0057
615-741-2564

Sen. Bill Ketron, Chairman
Senators

Douglas Henry Reginald Tate
Brian Kelsey Ken Yager
Steve Southerland
Randy McNally, *ex officio*
Lt. Governor Ron Ramsey, *ex officio*

Rep. Mark White, Vice-Chairman
Representatives

Charles Curtiss Pat Marsh
Jeremy Faison Mark Pody
Brenda Gilmore David Shepard
Matthew Hill Tim Wirgau
Charles Sargent, *ex officio*
Speaker Beth Harwell, *ex officio*

MEMORANDUM

TO: Mike Perry, Chief Procurement Officer
 Department of General Services

FROM: Senator Bill Ketron, Chairman **BK**
 Representative Mark White, Vice-Chairman **MW**

DATE: July 25, 2013

SUBJECT: **Contract Comments**
 (Fiscal Review Committee Meeting 7/15/13)

RFS# 344.01-00462 (Edison # Pending)

Department: Intellectual and Developmental Disabilities

Vendor: Microsoft Corporation

Summary: The proposed contract is for the provision of Microsoft Premier Support Services and Dedicated Support Engineering. The contract has a term beginning September 1, 2013, and ending August 31, 2016.

Proposed maximum liability: \$323,900

After review, the Fiscal Review Committee voted to recommend approval of the contact.

cc: The Honorable Debra K. Payne, Commissioner



STATE OF TENNESSEE
DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
FROST BUILDING
161 ROSA L. PARKS BOULEVARD
NASHVILLE, TENNESSEE 37243

June 27, 2013

Mr. Lucian Geise, Executive Director
Fiscal Review Committee
8th Floor, Rachel Jackson Building
320 Sixth Avenue, North
Nashville, Tennessee 37243

ATTENTION: Leni Chick

RE: Request for Contract Review
Microsoft Corporation
RFS # 34401-00462

Dear Mr. Geise:

The Department of Intellectual and Developmental Disabilities (DIDD) is submitting the enclosed proposed non-competitive contract with Microsoft Corporation for review in accordance with TCA, Section 12-4-109 (a)(I)(G)(i) and (a)(I)(G)(ii).

The proposed contract will provide DIDD with a resource for technical support and consultation to assist DIDD with its implementation efforts for the Microsoft Dynamics CRM platform (IT-ABC Project # DIDD-011201). Under the terms of this contract DIDD would have access to Technical Account Management from Microsoft, which offers specialized and highly skilled support and consulting services for all Microsoft products. These services will be utilized to assist in implementation and integration efforts currently being undertaken by the department, as well as for future expansions of the Dynamics CRM solution.

DIDD needs this support agreement in order to ensure successful implementation of its new technology solution, which is being built on the Microsoft Dynamics CRM framework. DIDD has contracted a third-party vendor to perform the initial implementation, but will require expertise that we do not currently have in-house in order to perform quality analysis on the work being performed by the vendor. In addition, DIDD will need this support moving forward to ensure adequate knowledge transfer as it assumes ownership of the new solution and seeks to expand on the solution to address other critical needs of the department.

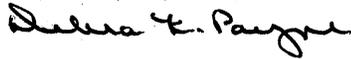
The proposed contract and Special Contract Request is enclosed along with a completed "*Supplemental Documentation Required for Fiscal Review Committee*" form, and OIR Endorsement Request.

Lucian Geise, Executive Director
page 2
6/26/2013

Please let me know if any additional information is required for review of this request.

Your assistance for review of this contract is appreciated.

Sincerely,

A handwritten signature in black ink that reads "Debra K. Payne". The signature is written in a cursive style.

Debra K. Payne
Commissioner

DKP:dd

Enclosures

Supplemental Documentation Required for
Fiscal Review Committee

*Contact Name:	Lance Iverson, Assistant Commissioner	*Contact Phone:	253-6710
*Original Contract Number:		*Original RFS Number:	34401-00462
Edison Contract Number: <i>(if applicable)</i>	To Be Determined	Edison RFS Number: <i>(if applicable)</i>	34401-00462
*Original Contract Begin Date:	September 1, 2013	*Current End Date:	August 31, 2016
Current Request Amendment Number: <i>(if applicable)</i>		N/A	
Proposed Amendment Effective Date: <i>(if applicable)</i>		N/A	
*Department Submitting:		Department of Intellectual and Developmental Disabilities	
*Division:		Policy and Innovation	
*Date Submitted:		6/28/2013	
*Submitted Within Sixty (60) days:		Yes	
<i>If not, explain:</i>			
*Contract Vendor Name:		Microsoft Corporation	
*Current Maximum Liability:		\$323,900.00	
*Current Contract Allocation by Fiscal Year: <i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i>			
FY: 2014	FY: 2015	FY: 2016	
\$0.00	\$0.00	\$0.00	
*Current Total Expenditures by Fiscal Year of Contract: <i>(attach backup documentation from STARS or FDAS report)</i>			
FY: 2014	FY: 2015	FY: 2016	
\$0.00	\$0.00	\$0.00	
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:		N/A	
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:		N/A	

Supplemental Documentation Required for
Fiscal Review Committee

IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:		N/A	
*Contract Funding Source/Amount:	State:	\$0.00	Federal: 0.00
Interdepartmental:	\$323,900.00	Other:	0.00
If "other" please define:			
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>	
N/A		N/A	
Method of Original Award: <i>(if applicable)</i>			
*What were the projected costs of the service for the entire term of the contract prior to contract award?		\$323,900.00	

Special Contract Request

NOT required for a contract with a federal, Tennessee, or Tennessee local government entity or a grant.
Route a completed request, as one file in PDF format, via e-mail attachment sent to: agsprs.agsprs@tn.gov.

APPROVED

Chief Procurement Officer

Request Tracking #	34401-00462
1. Contracting Agency	Department of Intellectual and Developmental Disabilities (DIDD)
2. Type of Contract	<input checked="" type="checkbox"/> Non-Competitive <input type="checkbox"/> No Cost <input type="checkbox"/> Revenue
3. Requestor Contact Information	Russell Nicoll, Chief Information Officer DIDD Frost Building, 4th Floor 161 Rosa L. Parks Blvd. Nashville, TN 37243 Phone: (615) 975-3897
4. Date Requested	6/24/2013
5. Brief Service Caption	Microsoft Premier Support Services and Dedicated Support Engineering
6. Proposed Contractor	Microsoft Corporation
7. Proposed Contract Period – with ALL options to extend exercised The proposed contract start date shall follow the approval date of this request.	36 months
8. Maximum Contract Cost – with ALL options to extend exercised	\$ 323,900.00
9. Office for Information Resources Endorsement – information technology (N/A to THDA)	<input type="checkbox"/> Not Applicable <input checked="" type="checkbox"/> Attached
10. eHealth Initiative Support – health-related professional, pharmaceutical, laboratory, or imaging	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached
11. Human Resources Support – state employee training	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached
12. Has the contracting agency procured the subject service before?	
<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES, it was procured by... <input type="checkbox"/> <i>RFP</i> <input type="checkbox"/> <i>Non-Competitive Negotiation</i> <input type="checkbox"/> <i>Another Competitive Method</i>	

Request Tracking #	34401-00462
13. Will the State incur any substantial cost as a result of the subject agreement? (For No Cost or Revenue Contracts <u>only</u>)	<input type="checkbox"/> NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> Not Applicable
14. Will the State also contract with other parties interested in entering substantially the same agreement?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES
<p>15. Description of Product/Services Contractor Will Provide</p> <p>Microsoft Premier Support Services and Dedicated Support Engineering</p> <p>This contract will provide DIDD with a resource for technical support and consulting to assist with its implementation efforts for the Microsoft Dynamics CRM platform (IT-ABC Project # DIDD-011201). Under the terms of this contract DIDD would have access to Technical Account Management from Microsoft, which offers specialized and highly skilled support and consulting services for all Microsoft products. These services will be utilized to assist in implementation and integration efforts currently being undertaken by the department, as well as for future expansions of the Dynamics CRM solution.</p>	
<p>16. Is this product/service currently available on a statewide contract? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES</p> <p>If YES, please explain why the current statewide contract is not being used for this procurement.</p>	
17. Summary of State Responsibilities Under Proposed Contract (For No Cost and Revenue Contracts <u>only</u>)	
<p>18. Explanation of Need for or Requirement Placed on the State to Acquire the Service</p> <p>DIDD needs this support agreement in order to ensure successful implementation of its new technology solution, which is being built on the Microsoft Dynamics CRM framework. DIDD has contracted a third-party vendor to perform the initial implementation, but will require expertise that we do not currently have in-house in order to perform quality analysis on the work being performed by the vendor. In addition DIDD will need this support moving forward to ensure adequate knowledge transfer as it assumes ownership of the new solution and seeks to expand on the solution to address other critical needs of the department.</p>	
<p>19. Proposed Contract Impact on Current State Operations</p> <p>These contracted services will provide DIDD with a much needed resource to ensure the successful implementation of its Dynamics CRM solution, which is critical to the support of its business operations. Other State Agencies are currently utilizing Microsoft Consulting Services and Premier Support Agreements in similar fashion in order to support their IT efforts.</p>	
<p>20. Justification – Specifically explain why the procurement method being requested is required.</p> <p>This is a service offering unique to Microsoft, and the specific products DIDD has procured from them. Therefore, DIDD is seeking a non-competitive procurement of these services.</p>	
<p>21. Contractor Selection Process and Efforts to Identify Reasonable, Competitive, Procurement Alternatives</p> <p>No other procurement sources exist for this service.</p>	
<p>22. Name & Address of the Contractor's Principal Owner(s) – NOT required for a TN state education institution</p> <p>Gunner Podlesak, Services Executive State and Local Government, and Education Microsoft Corporation 200 E Randolph, Suite 200 Chicago, IL 60601 gunnar@microsoft.com Cell: 773-860-0205 Tel: 312-920-5702 Fax: 425-936-7329</p>	

Request Tracking #	34401-00462
23. Evidence of Contractor's Experience & Length Of Experience Providing the Service Microsoft is recognized as a world leader in software development and technical consulting services.	
24. Was there an initial government estimate?	<input type="checkbox"/> NO <input checked="" type="checkbox"/> YES
25. Cost Determination Used- How did agency arrive at the price? Professional quote provided by the Contractor	
26. Documentation of Discussions with Contractor- How did agency document discussions with Contractor? DIDD has communicated with the vendor through our Account Representatives via email and face-to-face meetings, resulting in the attached proposed contract supplied by the vendor.	
27. Explanation of Fair and Reasonable Price- Explain why price is fair and reasonable under the circumstances The quote supplied by the vendor is based on the current market value for these services and the contracted rates for the State of TN.	
Agency Head Signature and Date – <i>MUST be signed by the ACTUAL agency head as detailed on the current Signature Certification. Signature by an authorized signatory is acceptable only in documented exigent circumstances</i> <div style="display: flex; justify-content: space-between;"> <div data-bbox="305 840 738 898">  </div> <div data-bbox="1031 835 1185 865"> 4.27.13 </div> </div>	

up 13-2333

Rule Exception Request

Route completed request, as one file in PDF format, via e-mail attachment sent to: AgSprs.Agspr@sate.tn.us

APPROVED

Michael J. Perry / *MS*

COMMISSIONER OF FINANCE & ADMINISTRATION CPO

Request Tracking #	34401-00462	
1. Contract #	To Be Determined	
2. Service Caption	Microsoft Premier Support Services and Dedicated Support Engineering	
3. Contractor	Microsoft Corporation	
4. Contract Period (with ALL options to extend exercised)	36 months	
5. Contract Maximum Liability (with ALL options to extend exercised)	\$ 323,900.00	
6. Rule (for which the exception is requested)	<input type="checkbox"/> 0620-3-3-.03(2)(a) OR 0620-3-3-.05 requiring compliance with relevant model guidelines (only if required by oversight authorities) <input type="checkbox"/> 0620-3-3-.05(5) requiring the prescribed Nondiscrimination contract provision <input type="checkbox"/> 0620-3-3-.07(5) prohibiting a contract term greater than five (5) years <input type="checkbox"/> 0620-3-3-.07(8) prohibiting a contract with a former state employee in within six (6) months of termination <input type="checkbox"/> 0620-3-3-.07(22) requiring contractor travel reimbursement in accordance with state travel regulations <input checked="" type="checkbox"/> OTHER (cite the relevant rule below) 0620-3-.07(15)(a)	
7. Explanation of Rule Exception Requested	<p>The department seeks a rule exception to permit advance payment.</p> <p>Rule 0620-3-.07(15)(a) states:</p> <p>(a) All contracts, in which the state is to make payment(s) to the contractor, shall provide that payments are to be made upon submittal of invoices by the contractor, after performance of the portion of the service which each payment represents, except that, grants may provide for advance payments in accordance with Department of Finance and Administration Office of Contracts Review Policy Guidelines.</p>	

Request Tracking #	34401-00462
8. Justification	Advance payment is the industry standard for payment of Microsoft Premier Support Services and Dedicated Support Engineering.
Agency Head Signature and Date <i>(contracting agency head or authorized signatory)</i>	
Diana K. Payne 6-27-13	



OIR Pre-Approval Endorsement Request E-Mail Transmittal

TO : Jane Chittenden, OIR Procurement & Contract Management Director
Department of Finance & Administration
E-mail : Jane.Chittenden@tn.gov

FROM : Debbie Dunn, Director of Contract Services
Department of Intellectual and Developmental Disabilities
E-mail : debra.dunn@tn.gov

DATE : 6/20/2013

RE : Request for OIR Pre-Approval Endorsement

Applicable RFS # 34401-00462

OIR Endorsement Signature & Date:

Chief Information Officer

NOTE: Proposed contract/grant support is applicable to the subject IT service technical merit.

Office for Information Resources (OIR) pre-approval endorsement appears to be required pursuant to professional service contracting regulations pertaining to procurements with information technology as a component of the scope of service. This request seeks to ensure that OIR is aware of and has an opportunity to review the procurement detailed below and in the attached documents.

Please document OIR endorsement of the described procurement (with the appropriate signature above), and return this document via e-mail at your earliest convenience.

Contracting Agency	Department of Intellectual and Developmental Disabilities
Agency Contact (name, phone, e-mail)	Debbie Dunn, 253-6812, debra.dunn@tn.gov
Subject Procurement Document (mark one)	
<input type="checkbox"/> RFP	<input type="checkbox"/> Contract
<input type="checkbox"/> Competitive Negotiation Request	<input type="checkbox"/> Contract Amendment
<input type="checkbox"/> Alternative Procurement Method Request	<input type="checkbox"/> Grant
<input checked="" type="checkbox"/> Non-Competitive Contract Request	<input type="checkbox"/> Grant Amendment
<input type="checkbox"/> Non-Competitive Amendment Request	
Information Systems Plan (ISP) Project Applicability	
<input type="checkbox"/> Not Applicable to this Request	
<input checked="" type="checkbox"/> Applicable- ISP Project# DIDD-011201	

Applicable RFS # 34401-00462

Response Confirmed by IT Director/Staff (name):

Required Attachments (as applicable – copies without signatures acceptable)

- RFP, Competitive Negotiation Request, Alternative Procurement Method Request, Non-Competitive Contract Request, Non-Competitive Amendment Request
- Original Contract/Grant or Amendment
- Proposed Contract/Grant or Amendment

Subject Information Technology Service Description

(Brief summary of information technology services involved. Clearly identify included technologies such as system development/maintenance, security, networking, etc. As applicable, identify the contract & solicitation sections related to the IT services.)

Microsoft Premier Support Services and Dedicated Support Engineering

This service is part of the TITAN Project.



CONTRACT

(fee-for-service contract with an individual, business, non-profit, or governmental entity of another state)

Begin Date 9/1/2013	End Date 8/31/2016	Agency Tracking # 34401-00462	Edison Record ID 39234
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Contractor Legal Entity Name Microsoft Corporation	Edison Vendor ID 70430
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Service Caption (one line only)
Microsoft Premier Support Services and Dedicated Support Engineering

Subrecipient or Vendor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor	CFDA #
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Funding — FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2014			\$323,900.00		\$323,900.00
2015			0.00		0.00
2016			0.00		0.00
TOTAL:			\$323,900.00		\$323,900.00

American Recovery and Reinvestment Act (ARRA) Funding: YES NO

Ownership/Control

African American Asian Hispanic Native American Female
 Person w/Disability Small Business Government NOT Minority/Disadvantaged
 Other:

Selection Method & Process Summary (mark the correct response to confirm the associated summary)

<input type="checkbox"/> RFP	The procurement process was completed in accordance with the approved RFP document and associated regulations.
<input type="checkbox"/> Competitive Negotiation	The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria.
<input type="checkbox"/> Alternative Competitive Method	The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria.
<input checked="" type="checkbox"/> Non-Competitive Negotiation	The non-competitive contractor selection was completed as approved, and the procurement process included a negotiation of best possible terms & price.
<input type="checkbox"/> Other	The contractor selection was directed by law, court order, settlement agreement, or resulted from the state making the same agreement with all interested parties or all parties in a predetermined "class."

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations. <i>Melinda Lanza 8/21/13</i> Melinda Lanza 253-3166	OCR USE - FA
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Speed Chart (optional)	Account Code (optional)
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Dept ID 344010001	Account 70803000	Location CF .19049	Program 344169	User Code 700043
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**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
AND
MICROSOFT CORPORATION**

This Contract, by and between the State of Tennessee Department of Intellectual and Developmental Disabilities, hereinafter referred to as the "State" or "DIDD" and Microsoft Corporation, hereinafter referred to as the "Contractor," is for the provision of Microsoft Premier Support Services and Dedicated Support Engineering, as further defined in the "SCOPE OF SERVICES."

The Contractor is a for-profit corporation.
Contractor Place of Incorporation or Organization: IL
Contractor Edison Registration ID #

A. SCOPE OF SERVICES:

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.
- A.2. The Contractor shall provide Microsoft Premier Support Services and Dedicated Support Engineering (DSE) as indicated below and as further defined in Attachment 1, Microsoft Premier Support Service Description, of this Contract as may be amended as mutually agreed between DIDD and the Contractor.
- a. Support Account Management from an assigned Microsoft resource ("Services Resource") helps to build and maintain relationships with DIDD management and service delivery staff and helps DIDD arrange each element of the Premier Support to meet DIDD business requirements. (Estimated at 360 hours)
 - b. Workshops help DIDD to prevent problems, increase system availability and assist with creating products and solutions based on Microsoft technologies.
 - c. Problem Resolution Support provides assistance for problems with specific symptoms encountered while using Microsoft products, where there is a reasonable expectation that the problem is caused by Microsoft products. (Estimated at 100 hours)
 - d. Support Assistance provides short-term advice and guidance for problems not covered with Problem Resolution Service as well as requests for consultative assistance for design, development and deployment issues. (Estimated at 100 hours)
 - e. Information Services provide DIDD staff with the latest knowledge on Microsoft technologies to enhance DIDD in-house support capabilities.
 - f. Dedicated Support Engineering: Dedicated Support Engineering is available during normal business hours and supports the specific Microsoft products/technologies with a focus on delivering engaged, hands-on preventative support. Normal business hours are defined as 8AM to 5PM in the local time where the DSE resources are located, Monday through Friday excluding holidays. After normal business hours, DIDD should follow existing Premier Support procedures for initiating and escalating incidents. DIDD will engage DIDD Dedicated Support Engineering resource(s) after normal business hours for critical situations as needed.
- A.3. DIDD shall comply with Attachment 2, Microsoft Master Services Agreement Number U6270911 between the State of Tennessee Department of General Services and Microsoft Licensing, GP, which defines established terms of the relationship between the State of Tennessee and the Contractor prior to the beginning date of this Contract.



B. CONTRACT PERIOD:

This Contract shall be effective for the period beginning September 1, 2013, and ending on or no later than August 31, 2016. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed three hundred twenty three thousand, nine hundred dollars and no cents (\$323,900.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology described in Attachment 1 of this Contract in a total amount not to exceed the Contract Maximum Liability established in section C.1.
- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

In the event of a discrepancy regarding travel compensation between this Contract Document and Attachment 1 of this Contract Document Contract Section C.4. of this Contract shall control.

- C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Russell Nicoll, Chief Information Officer
Department of Intellectual and Developmental Disabilities
Frost Building
161 Rosa L. Parks Boulevard
Nashville, Tennessee 37243

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice Number (assigned by the Contractor)
 - (2) Invoice Date
 - (3) Contract Number (assigned by the State)
 - (4) Customer Account Name: Department of Intellectual and Developmental Disabilities



- (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
- (6) Contractor Name
- (7) Contractor Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
- (8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
- (9) Contractor Remittance Address
- (10) Description of Delivered Service
- (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service or Milestone Description (including name & title as applicable) of each service invoiced
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
 - iv. Amount Due by Service
 - v. Total Amount Due for the invoice period

b. The Contractor understands and agrees that an invoice under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) not include sales tax or shipping charges; and
- (3) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.6.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.

- a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once said form is received by the State, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH).
- b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number detailed by said form must agree with the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract.



D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee.

- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of *Tennessee Code Annotated*, Section 12-4-124, *et seq.*, addressing the use of illegal immigrants in the performance of any Contract to



supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment 3., hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of *Tennessee Code Annotated*, Section 12-4-124, *et seq.* for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or



provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified



by written notice.

The State:

Russell Nicoll, Chief Information Officer
Department of Intellectual and Developmental Disabilities
Frost Building
161 Rosa L. Parks Boulevard
Nashville, Tennessee 37243
Russell.Nicoll@tn.gov
Telephone (615) 975-3897
FAX # (615) 391-9841

The Contractor:

Gunner Podlesak, Services Executive
State and Local Government, and Education
Microsoft Corporation
200 E. Randolph, Suite 200
Chicago, Illinois 60601
gunnar@microsoft.com
Telephone 312-920-5702
Fax # 425-936-7329
Cell #: 773-860-0205

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.5. Tennessee Department of Revenue Registration. The Contractor shall be registered with the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Contract.
- E.6. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information



in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.7. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.
- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.
- E.8. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.



- c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.

E.9. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

IN WITNESS WHEREOF,

MICROSOFT CORPORATION:

David T. Gallagher 9-26-13
 CONTRACTOR SIGNATURE DATE
David T. Gallagher Director of Contracts
 PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES:

Debra K Payne 10-7-13
 DEBRA K. PAYNE, COMMISSIONER DATE



State and Local Government – Microsoft Premier Support Services Description

(Microsoft Affiliate to complete)
Services Description Number.
 (For Microsoft Internal Purposes Only)
 MSL Number

This services description ("**Services Description**") is made pursuant to the Microsoft Master Services Agreement, (the "**Agreement**") # effective as of _____, which is incorporated herein by this reference. In this Services Description "**You**", "**Your**" or "**Customer**" means the undersigned customer and "**We**," "**Us**," or "**Our**" means the undersigned Microsoft affiliate. Any terms not otherwise defined herein will assume the meanings set forth in the Agreement. This Services Description is comprised of this cover page and the Services Description terms below, which are incorporated herein by this reference.

Customer Invoice Information		
Name of Customer Tennessee Department of Intellectual and Developmental Disabilities		Contact Name (This person receives invoices under this Services Description unless otherwise specified on Your purchase order.) Russell Nicoll
Name of Customer or Affiliate that executed the Agreement if different than the undersigned		
Street Address		Contact E-mail Address Russell.Nicoll.@tn.gov
City	State/Province TN	Phone
Country USA	Postal Code	Fax
Invoicing		
Premier Support is a prepaid service and all fees and any applicable taxes are due upon acceptance of this Services Description. We must be in receipt of a purchase order, check, or other acceptable form of payment before We will begin providing Services. We will invoice You for additional Services performed and expenses incurred. Our invoices are payable in full within 30 days of receipt by You and will be directed to Your representative for payment at the address shown above unless otherwise provided in a purchase order. Notwithstanding the foregoing, multi-year Service Descriptions will be invoiced upon Our acceptance of this Services Description for year one and the remaining installments will be invoiced at the subsequent anniversaries of the Commencement Date as defined on the Fee and Named Contacts Schedule(s). We reserve the right to adjust Our fees prior to entering into any new Fee and Named Contacts Schedule(s).		
Term		
This Services Description will commence on <u>September 1, 2013</u> and will expire on <u>August 31, 2016</u> (the "Expiration Date") unless otherwise extended by a subsequent FNC(s).		

By signing below the parties acknowledge and agree to be bound to the terms of the Agreement and this Services Description.

Customer	Microsoft Affiliate
Name of Customer (please print) Tennessee Department of Intellectual and Developmental Disabilities	Name Microsoft Corporation
Signature	Signature
Name of person signing (please print)	Name of person signing (please print)
Title of person signing (please print)	Title of person signing (please print)
Date	Date



1. OVERVIEW. This Services Description describes the various types of services that may be obtained (the "Services"). In addition, it sets forth the parties' respective responsibilities, prerequisites and assumptions that underlie the provision of the Services, applicable fees, and additional terms and conditions. The Services focus on the following key areas:

Support Account Management from an assigned Microsoft resource ("Services Resource") helps to build and maintain relationships with Your management and service delivery staff and helps You arrange each element of the Premier Support to meet Your business requirements.

Workshops help You to prevent problems, increase system availability and assist with creating products and solutions based on Microsoft technologies.

Problem Resolution Support provides assistance for problems with specific symptoms encountered while using Microsoft products, where there is a reasonable expectation that the problem is caused by Microsoft products.

Support Assistance provides short-term advice and guidance for problems not covered with Problem Resolution Service as well as requests for consultative assistance for design, development and deployment issues.

Information Services provide Your staff with the latest knowledge on Microsoft technologies to enhance Your in-house support capabilities.

2. AVAILABLE SERVICES. You may utilize any combination of the following Services. Unless We specify otherwise, the Services are charged on an hourly basis and will be deducted from the total number of hours You have purchased as set forth in the attached Fee and Named Contacts Schedule(s). The complete list of Services below may not be available in all countries. For a detailed list of Services available outside the US, please contact Your Services Resource.

2.1 Support Account Management. Support Account Management services are intended to help coordinate the support and services relationship. The Services Resource is Your advocate within Microsoft and facilitates a team that can provide Workshops, Problem Resolution Support, and Support Assistance. The Services Resource also serves as the point of information delivery and provides Your feedback regarding the Services to other Microsoft groups. The Services Resource will engage with You in the following activities which will be deducted from the pre-paid hours listed in the "Premier Support Fees" section below:

- a. Planning and Resource Facilitation. At the commencement of this Service Description, an orientation and planning session can be conducted with Your management and staff via teleconference or onsite if an onsite visit has been purchased. The purpose of this meeting is to discuss the Services available, gather input regarding Your support needs, and jointly plan Your use of the Services.
- b. Status Meetings and Reporting. A standard status report can be prepared on a regular basis, to summarize the Services delivered during the previous reporting period. Status meetings will be conducted to discuss Service activities, monitor Your satisfaction levels, and discuss actions or adjustments that may be required. Customized reporting can be provided at Your request and any additional related labor will be deducted from Your Support Assistance hours.
- c. Escalation Management. Support issues that require escalation to other resources within Microsoft can be closely managed by the Services Resource to expedite resolution.

2.2 Workshops and Events. The goal of Workshops and Events is to provide You proactive technical information to assist in the design, development or deployment of Microsoft technologies. ***All registration requirements for Workshops and Events must be completed by You 60 days prior to the expiration date of the applicable Fee and Named Contacts Schedule(s).*** Additional benefits may include instruction to help reduce the number and minimize the impact of problems related to Microsoft Products that You experience. Workshops and Events can include the following:

- a. Workshops. We can conduct instructor-led training sessions that emphasize Microsoft technologies at Your facility or on location at Microsoft. If You elect to have a Workshop conducted at Your facility, We will provide You with specifications for configuring Your environment prior to the delivery of the Workshops. Workshops are individually scoped and priced depending upon the length, delivery location and material presented. Your Services Resource can provide You with a current list of available Workshops.
- b. Events. We can provide broad and deep technical development-focused presentations, combined with hands-on labs that provide training and facilitate Your implementations of Microsoft technologies. These Events



provide the opportunity to interact with Microsoft product groups, Premier support development resources and marketing contacts. Your Services Resource can provide You with notification of scheduled Events.

2.3 Problem Resolution Support. Problem Resolution Support provides assistance for problems with specific symptoms encountered while using Microsoft products, where there is a reasonable expectation that the problems are caused by Microsoft products. Problem Resolution Support is available 24 hours a day, 7 days a week. Requests for support may be submitted via telephone or electronically through the Premier online website by Your designated contacts, except for Severity 1 and A which must be submitted via telephone as set forth below in Section 2.3(a). Problem Resolution Support can include any combination of the following:

- a. **Problem Request (Break-Fix).** An assisted break-fix support request, also known as an incident, is defined as a single support issue and the reasonable effort needed to resolve it. A single support issue is a problem that cannot be broken down into subordinate issues. If a problem consists of subordinate issues, each shall be considered a separate incident. Incidents requiring an onsite visit will be charged on an hourly basis and will include charges for reasonable travel and living expenses. In certain situations, We may provide You with a modification to the commercially available Microsoft product software code to address specific critical problems ("Hotfix(es)") in response to an assisted break-fix support request. Hotfixes are designed to address Your specific problems and are not regression tested. Except as otherwise provided herein or in an Exhibit, Hotfixes may not be distributed to unaffiliated third parties without Our express written consent.

Problem resolution support is charged on an hourly basis and includes the commercially reasonable amount of hours of Services necessary to troubleshoot and help resolve the support issue. Hours-based incidents are deducted from the pre-paid hours set forth in the attached Fee and Named Contacts Schedule(s) or charged to You in arrears if all pre-paid hours have been exhausted.

You are responsible for setting the initial severity level in consultation with Us and You can request a change in severity level at any time. The incident severity will determine the response levels within Microsoft and estimated response times and Your responsibilities are defined in the following table:

Severity	Situation	Our Expected Response	Your Expected Response
1 Submission via phone only	<ul style="list-style-type: none"> • Catastrophic business impact: • Complete loss of a core (mission critical) business process and work cannot reasonably continue • Needs immediate attention 	<ul style="list-style-type: none"> • 1st call response in 1 hour or less • Our Resources at Your site as soon as possible. • Continuous effort on a 24x7 basis • Rapid Escalation within Microsoft to Product teams • Notification of Our Senior Executives 	<ul style="list-style-type: none"> • Notification of Your Senior executives • Allocation of appropriate resources to sustain continuous effort on a 24x7 basis² • Rapid access and response from change control authority
A Submission via phone only	<ul style="list-style-type: none"> • Critical business impact: • Significant loss or degradation of services • Needs attention within 1hour 	<ul style="list-style-type: none"> • 1st call response in 1 hour or less • Our Resources at Your site as required. • Continuous effort on a 24x7 basis • Notification of Our Senior Managers 	<ul style="list-style-type: none"> • Allocation of appropriate resources to sustain continuous effort on a 24x7 basis² • Rapid access and response from change control authority • Management notification
B Submission via phone or web	<ul style="list-style-type: none"> • Moderate business impact: • Moderate loss or degradation of services but work can reasonably continue in an impaired manner. • Needs attention within 2 Business Hours¹ 	<ul style="list-style-type: none"> • 1st call response in 2 hours or less • Effort during Business Hours¹ only 	<ul style="list-style-type: none"> • Allocation of appropriate resources to sustain Business Hours¹ continuous effort • Access and response from change control authority within 4 Business Hours¹
C Submission via phone or web	<ul style="list-style-type: none"> • Minimum business impact: • Substantially functioning with minor or no impediments of services. • Needs attention within 4 Business Hours¹ 	<ul style="list-style-type: none"> • 1st call response in 4 hours or less • Effort during Business Hours¹ only 	<ul style="list-style-type: none"> • Accurate contact information on case owner • Responsive within 24 hours.

¹ Business Hours are defined as 6AM to 6PM Pacific Time, Monday through Friday excluding holidays.

² We may need to downgrade the severity level if You are not able to provide adequate resources or responses to enable Us to continue with problem resolution efforts.



You may be required to perform problem determination and resolution activities as requested by Us. Problem determination and resolution activities may include performing network traces, capturing error messages, collecting configuration information, changing product configurations, installing new versions of software or new components, or modifying processes.

You are responsible for implementing the procedures necessary to safeguard the integrity and security of Your software and data from unauthorized access and to reconstruct lost or altered files resulting from catastrophic failures.

- b. Rapid Onsite Support Services. You can request on-site support as an additional billable service. Our ability to provide onsite support is subject to Our resource availability, and the tasks performed will vary depending on the situation, environment, and business impact of the issue.
- c. Software Assurance Benefits. You may elect to convert Your Software Assurance 24x7 Problem Resolution Support Incidents (SA PRS Incidents) to Premier Problem Resolution Support (PPRS) hours or incidents for use consistent with Your Premier service plan at the time of transfer. This conversion is based on a local rate calculation that will be provided by your Services Resource. You may be required to purchase additional Support Account Management hours before converting SA PRS incidents/hours. All SA PRS Incidents You transfer are subject to this Services Description.

2.4 Support Assistance. Support Assistance provides short-term advice and guidance for problems not covered with Problem Resolution Support as well as requests for consultative assistance for design, development and deployment issues. Your Services Resource will work with You to determine Your specific Support Assistance needs.

The following are types of Support Assistance that can be utilized under this Services Description:

- a. Infrastructure Support Assistance. Infrastructure Support Assistance includes informal advice, guidance and knowledge transfer intended to help You implement Microsoft technologies in ways that avoid common support issues and decrease the likelihood of system outages.

These services also help You to resolve problems that are not attributed to Microsoft Products including:

- Errors caused by Your networking infrastructure, hardware, non-Microsoft software, operational procedures, architecture, IT service management process, system configuration or human error.
- Multi-vendor coordination interoperability problems. Upon Your request, We will collaborate with third-party software suppliers to help resolve complex multi-vendor product interoperability issues.

- b. Reviews. A review is an assessment of a specific system, application or architecture to address design, development, deployment, and supportability issues for current or planned implementations of Microsoft technologies. Each review is individually scoped and estimated prior to scheduling resources, and a written report is produced to document findings and recommendations. **All requests for reviews and the applicable data must be submitted to Us no later than 60 days prior to expiration date of the applicable Fee and Named Contacts Schedule(s).**
- c. Development Support Assistance. Development Support Assistance helps You in Your creation and development of internal applications on the Microsoft platform that integrate Microsoft technologies. Development Support Assistance specializes in Microsoft development tools and technologies.
- d. Lab Access. Microsoft can provide You with access to a lab facility to assist You with product development, benchmarking and testing, prototyping and migration activities on Microsoft products. These facilities must be scheduled in advance and are subject to availability.

2.5 Information Services. Information Services provide You with technical information about Microsoft products and support tools that help You to implement and operate Microsoft products in a more efficient and effective manner. Information Services can include any combination of the following:

- a. Premier online website. The Premier online website provides access to the following information resources at no additional charge:
 - Regularly updated product news flashes documenting key support and operational information about Microsoft products.
 - Critical problem alerts notifying You of potentially high-impact problems.
 - Web response tool for submitting and checking the status of support incidents.
 - Microsoft Knowledgebase of technical articles and troubleshooting tools and guides.



- b. Support Webcasts. Support webcasts are regularly scheduled webcast discussions led by Our program managers, developers and professionals covering key areas of Microsoft technology. These are provided at no additional charge and require high speed internet access to participate.

2.6 Additional Services. You may request changes or additions to this Services Description at any time. Additional Services that are available for purchase, and the specific terms and conditions applicable to those Services, may be set forth in this Services Description, an attached Exhibit and/or Fee and Named Contacts Schedule(s). Additional Services will be invoiced at the prevailing price at the time the Services are rendered or upon acceptance of an Exhibit and/or Fee and Named Contacts Schedule(s) referencing this Services Description. If you purchase additional Problem Resolution Support hours or convert Software Assurance hours to Problem Resolution Support hours, you may also be required to purchase additional Services Management hours. Prior to delivering additional Services, We must be in receipt of a purchase order, check or other acceptable form of payment.

3. PREREQUISITES AND ASSUMPTIONS. Our delivery of Services under this Services Description is based upon the following Prerequisites and Assumptions:

- a. All Services will be provided remotely to Your locations in the United States unless otherwise set forth in an Exhibit to this Services Description (see section 3(k) below). Where additional onsite visits are mutually agreed, and not pre-paid and defined on your Fee and Named Contacts Schedule, You will be billed for reasonable travel and living expenses in arrears. Alternatively, You agree that any travel related expenses incurred by Microsoft may be decremented from the Support Assistance hours if You so choose. You certify that You possess the authority for this approval and such conversion is in compliance with any applicable government procurement and audit rules or regulations.
- b. All Services will be provided in the English language unless otherwise agreed to by You and Us in writing or in an Exhibit to this Services Description.
- c. We will provide support for all United States versions of commercially released generally available Microsoft products unless otherwise set forth in an Exhibit to this Services Description or specifically excluded on the Premier online website. Support for those Microsoft products that have entered the Extended Support Phase, as defined on the Premier online website, will be charged on an hourly basis only. Non-security related Hotfix support is not available for Microsoft products that have entered the Extended Phase of support unless You have purchased such support in an Exhibit to this Services Description.
- d. Support for pre-release products is not provided except as otherwise provided in an attached Exhibit.
- e. **ALL SERVICES, INCLUDING ANY ADDITIONAL SERVICES PURCHASED DURING THE TERM OF FEE AND NAMED CONTACTS SCHEDULE(S) SHALL BE FORFEITED IF NOT UTILIZED DURING THE TERM OF THE APPLICABLE FEE AND NAMED CONTACTS SCHEDULE(S).**
- f. Support Assistance is dependent upon the availability of resources.
- g. We can access Your system via remote dial-in to analyze problems at Your request. Our personnel will access only those systems authorized by You. We may provide You with software to assist with problem diagnosis and/or resolution. Such software is Microsoft's property and must be returned to Us promptly upon request. In order to utilize remote dial-in assistance, You must provide Us with the appropriate access and necessary equipment.
- h. You must have access to the Internet in order to take advantage of Internet-based services.
- i. Additional Prerequisites and Assumption may be set forth in relevant Exhibits.
- j. When purchasing Problem Resolution Support, we will require a corresponding quantity of Support Account Management to facilitate delivery of your Problem Resolution Support. If you purchase additional Problem Resolution Support, Support Assistance, or if you convert Software Assurance hours to Problem Resolution Support hours or incidents, you may be required to purchase additional Support Account Management.
- k. Resource Site Visits (number of trips to Your location) are mutually agreed upon at acceptance of this Services Description and the total fixed price amount for these visits are included in Your Fee and Named Contacts Schedule.



4. YOUR RESPONSIBILITIES. This section sets forth Your performance obligations under this Services Description. Our performance is predicated upon You fulfilling the following responsibilities in addition to those set forth in Section 2.3 and any applicable Exhibits. Failure to comply with the following responsibilities may result in delays of Service.

- a. You can designate named contacts as set forth in the attached Fee and Named Contacts Schedule(s), one of which will be the Customer Support Manager ("CSM") for support related activities. The CSM is responsible for leading Your team and will manage all of Your support activities, and internal processes for submitting support requests to Us. Each contact will be supplied with an individual account number for access to the Premier online website, support issue submission and access to Your Services Resource. In addition to the named contacts, You may also identify two types of group contacts as follows:
 - One type will receive a shared account ID that provides access to the Premier online website for information content and the ability to submit support requests through the Premier online website or by telephone.
 - One type will receive a shared account ID that provides access to the Premier online website for information content only.
- b. You agree to work with Us to plan for the utilization of Services based upon the service level You purchased.
- c. You agree to provide an internal escalation process to facilitate communication between Your management and Us as appropriate.
- d. You agree to respond to customer satisfaction surveys We may provide to You from time-to-time regarding the Services.
- e. You agree to provide reasonable office space, telephone and high speed internet access, and access to Your internal systems and diagnostic tools to Our Services Resources that are required to be on-site.
- f. You are responsible for any travel and expenses incurred by Your employees or contractors.

5. ADDITIONAL TERMS AND CONDITIONS. Except as otherwise set forth in an Exhibit (or attachment to an Exhibit) to this Services Description, this section governs the ownership and use rights of any computer code or other materials that may be provided under this Services Description.

- a. **Pre-existing Work.** All rights in any computer code or materials developed or otherwise obtained by or for Us or Our affiliates, or You or Your affiliates independently of this Services Description ("Pre-existing Work") shall remain the sole property of the Party providing the Pre-existing Work. During the performance of the Services for this Services Description, each Party grants to the other Party (and Our contractors as necessary) a temporary, non-exclusive license to use, reproduce and modify any of its Pre-existing Work provided to the other Party solely for the performance of such Services. We grant You a non-exclusive, perpetual, fully paid-up license to use, reproduce and modify (if applicable) Our Pre-existing Work in the form delivered to You for Your internal business operations without any obligation of accounting or payment of royalties. Your licenses to Our Pre-existing Work are conditioned upon Your compliance with the terms of the Agreement and this Services Description and the perpetual license applies solely to Our Pre-existing Work that is left to You at the conclusion of Our performance of the Services.
- b. **Materials.** All rights in any materials developed by Us (other than software code) and provided to You in connection with the Services ("Materials") shall be owned by Us except to the extent such Materials constitute Your Pre-existing Work. Upon payment in full, We grant You a non-exclusive, perpetual, fully paid-up license to use, reproduce and modify the Materials solely for Your internal business operations and without any obligation of accounting or payment of royalties. You may sublicense the rights granted herein to Your Affiliates. All rights not expressly granted, are reserved.
- c. **Sample Code.** We grant You a nonexclusive, perpetual, royalty-free right to use and modify any software code provided by Us for the purposes of illustration ("Sample Code") and to reproduce and distribute the object code form of the Sample Code, provided that You agree: (i) to not use Our name, logo, or trademarks to market Your software product in which the Sample Code is embedded; (ii) to include a valid copyright notice on Your software product in which the Sample Code is embedded; and (iii) to indemnify, hold harmless, and defend Us and Our suppliers from and against any claims or lawsuits, including attorneys' fees, that arise or result from the use or distribution of the Sample Code.
- d. **Open Source License Restrictions.** Because certain third party license terms require that computer code be generally (i) disclosed in source code form to third parties; (ii) licensed to third parties for the purpose of making derivative works; or (iii) redistributable to third parties at no charge (collectively, "open source license terms"), the license rights that each Party has granted to any computer code (or any intellectual property associated therewith) do not include any license, right, power or authority to incorporate, modify, combine and/or distribute

Attachment



that computer code with any other computer code in a manner which would subject the other's computer code to open source license terms.

Furthermore, each Party warrants that it will not provide or give to the other Party computer code that is governed by open source license terms.

e. **Reservation of Rights.** All rights not expressly granted in this Section 5 are reserved..

6. Attachments: The following Schedule(s) and Exhibits are attached at the execution of this Services Description:

- Microsoft Premier Support Services Description Schedule: Fee and Named Contacts Schedule
- Microsoft Premier Support Services Description Exhibit: Designated Support Engineering



Microsoft Premier Support Services Description Exhibit: Dedicated Support Engineering (DSE)

(For Microsoft Internal Purposes Only)
Premier Support Services Description Number

(For Microsoft Internal Purposes Only)
Exhibit Number

This Exhibit is made pursuant to the Microsoft Premier Support Services Description identified above (the "Services Description"). The terms of the Services Description are incorporated herein by this reference. Any terms not otherwise defined herein will assume the meanings set forth in the Services Description.

Term
This Exhibit will commence on <u>August 01, 2013</u> and will expire on <u>July 31, 2016</u> (the "Expiration Date").

1. **OVERVIEW:** The following Services are provided in addition to those set forth in the Services Description:
2. **DEDICATED SUPPORT ENGINEERING:** Dedicated Support Engineering is available during normal business hours (defined below) and supports the specific Microsoft products/technologies designated in Your Fee and Named Contact Schedule(s) with a focus on delivering engaged, hands-on preventative support. Dedicated Support Engineering hours are deducted from the total number of Dedicated Support Engineering hours designated in your Fee and Named Contacts Schedule(s). Normal business hours are defined as 8AM to 5PM in the local time where the DSE resources are located, Monday through Friday excluding holidays. After normal business hours, You should follow existing Premier Support procedures for initiating and escalating incidents. Your Technical Account Manager will engage Your Dedicated Support Engineering resource(s) after normal business hours for critical situations as needed.
3. **DELIVERABLES:** Dedicated Support Engineering resource(s) will be allocated, prioritized and assigned as agreed upon by both parties during an initial engagement kick-off meeting, which will be documented and delivered to You in a Premier Service Delivery Plan. The focus of the DSE Services include but are not limited to:
 - a) **Problem Prevention/Incident Resolution designed to:**
 - Supplement the current Microsoft Premier Support engagement through delivery of timely and high quality problem prevention/incident resolution, both directly and working in conjunction with Microsoft internal customer support resources.
 - Work in conjunction with Microsoft internal customer support resources to act as a 'catalyst' for incident resolution that are within the Dedicated Support Engineering resources' products/technologies skill sets.
 - Develop and implement strategies for providing proactive support resulting in fewer incidents, increased availability of Your covered Microsoft products/technologies, and supportable deployments.
 - Commercially reasonable attempts will be made to determine root cause of recurring incidents and provide recommendations to prevent further disruptions in the designated Microsoft products/technologies.
 - b) **Technical/Business Focus designed to:**
 - Maintain deep knowledge of Your current and future business requirements and configuration of Your information technology environment to provide high quality focused support.
 - Proactively* document recommendations of the use of Premier Support related deliverables, e.g. supportability reviews, health checks, workshops, risk assessment programs, etc. to improve the operational health of the designated Microsoft products/technologies deployed in Your environment.
 - Ensure deployment and operation activities are consistent with Your planned and current implementations of designated Microsoft products/technologies.



- Ensure maximum possible knowledge transfer to enhance Your support staffs' technical and operational skills for the designated Microsoft products/technologies.
 - Encourage and assist in the creation and maintenance of customer-specific documentation to support Your environment configuration, disaster recovery, network topology, IT/Operations scorecard, etc. for the designated Microsoft products/technologies.
- c) *Integration of Work designed to:***
- Ensure tight integration of their work with that of Your assigned Technical Account Manager to ensure coordinated service delivery.
 - Develop a relationship with any Microsoft resource(s) at Your site, resulting in more participation in project planning and thus improved operational health on the designated Microsoft products/technologies.



**Microsoft Premier Support Services Description Schedule:
Fee and Named Contacts:**

(Microsoft Affiliate to complete)

Premier Support Services Description Number

(Microsoft Affiliate to complete)

Schedule Number

NEW

Customer Name: **Tennessee Department of Intellectual and Developmental Disabilities**

This Schedule is made pursuant to the Microsoft Premier Support Services Description identified above (the "**Services Description**"). The terms of the Services Description and applicable Exhibits are incorporated herein by this reference and by accepting Our performance of Services under this Schedule You agree to be bound by these terms. Any terms not otherwise defined herein will assume the meanings set forth in the Agreement and the Services Description.

Term

This Schedule will commence on September 1, 2013 and will expire on August 1, 2016 (the "Expiration Date").

1. PREMIER SUPPORT SERVICES AND FEES. The quantities listed in the table below represent the amount of Services that You have pre-purchased for use during the term of this Schedule and applicable fees.

a. Fee Summary

	<i>Price (US\$)</i>
Country: United States	\$323,900
Total	\$323,900

b. Software Assurance Benefits

You may elect to convert Your Software Assurance 24x7 Problem Resolution Support Incidents (SA PRS Incidents) to Premier Problem Resolution Support (PPRS) hours or incidents for use consistent with Your Premier service plan at the time of transfer. This conversion is based on a local rate calculation that will be provided by your Services Resource. You may be required to purchase additional Support Account Management hours before converting SA PRS incidents/hours. All SA PRS Incidents You transfer are subject to this Services Description

When purchasing Problem Resolution Support, we will require a corresponding quantity of Support Account Management to facilitate delivery of your Problem Resolution Support. If you purchase additional Problem Resolution Support, Support Assistance, or if you convert Software Assurance hours to Problem Resolution Support hours or incidents, you may be required to purchase additional Support Account Management

c. Services by Support Location

Both Customer and Microsoft understand that there may be travel requirements for performing services under this Services Description. For any travel expenses that may arise in connection with this SD, Customer agrees that any travel and other expenses incurred by Microsoft may be decremented from the Support Assistance hours.

Country : United States (Premier Standard 0)
<ul style="list-style-type: none"> • Support Account Management (estimated at 360) • Up to 100 hours for Support Assistance* • Up to 100 hours for Problem Resolution • Up to 800 hours Designated Support Engineering • Unlimited Access to Premier Online Services



* All registration requirements for Workshops and Events must be completed by You no later than 60 days prior to the expiration date of this Fee and Named Contacts Schedule(s).

2. MICROSOFT CONTACT

Microsoft Contact: Contact for questions and notices about this Schedule and the Services Description:

Microsoft Contact Name: Gunnar Podlesak
Address: Microsoft Corporation 200 E Randolph, Suite 200 Chicago, IL 60601
gunnar@microsoft.com
Phone: 312-920-5702
Fax: 425-936-7329

3. CUSTOMER NAMED CONTACTS

a. **Premier Customer Named Contacts:** Any subsequent changes to the Named Contacts should be submitted to the Services Resource CSM.

b.	
CSM Name:	Named Contact Name:
Address: _____ _____	Address: _____ _____
Phone: ()	Phone: ()
Email:	Email:
Facsimile: ()	Facsimile: ()

Named Contact Name:	Named Contact Name:
Address: _____ _____	Address: _____ _____
Phone: ()	Phone: ()
Email:	Email:
Facsimile: ()	Facsimile: ()



Microsoft Master Services Agreement – State and Local (Non-Standard)

Microsoft Master Services Agreement Number
Microsoft affiliate to complete

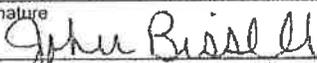
46270911

This Microsoft Master Services Agreement is entered into between the following entities as of the effective date identified below. This agreement is comprised of this cover page and the attached terms and conditions, the terms of which are incorporated herein by this reference.

This agreement contains terms of the relationship between you and us. If you contract for services from us under this agreement, the specific terms of those transactions will be contained in this agreement and any statement of services incorporating this agreement.

If the first statement of service entered into under this agreement is given an effective date that is earlier than the effective date of this agreement, the effective date of this agreement will be that earlier date for the purposes of that statement of service.

By signing below, each party acknowledges that it has read and understood the terms of this agreement and agrees to be bound by these terms.

Customer	Microsoft Affiliate
Name of Customer (please print) State of Tennessee, Department of General Services	Name Microsoft Licensing, GP
Signature 	Signature 
Name of person signing (please print) John Bissell	Name of person signing (please print) c/o David T. Gallagher
Title of person signing (please print) Director of Purchasing	Title of person signing (please print) Director of Contracts
Signature date 07-30-09	Signature date (may be different than Effective Date) July 30, 2009
	Effective Date (may be different than Signature Date) July 30, 2009

Attachment:



Contact information. Each party will notify the other in writing if any of the information in the following table changes. The * indicates required fields. By providing contact information, you consent to its use for purposes of administering this agreement by us, our affiliates, and other parties that help us administer this agreement.

Customer		
Name of Customer *		Contact Name *(This person receives notices under this agreement pursuant to Section 12 (Notices)).
John Bissell		John Bissell
Street Address *		Contact Email Address *
312 Rosa L. Parks		John.Bissell@tn.gov
City *	State/Province *	Phone
Nashville	TN	(615) 741-4302
Country *	Postal Code *	Fax
U.S.	37243	615. 741-0684
Microsoft		
Notices to Microsoft should be sent to (Microsoft affiliates to complete):		Copies should be sent to:
		Microsoft Law and Corporate Affairs One Microsoft Way Redmond, WA 98052 USA Services Attorney (425) 936-7329 fax



Terms and Conditions

1. **Definitions.** In this agreement, a "party" or "parties" means you and/or us as the context requires. "You" means the entity that has entered into this agreement and may also refer, as the context requires, to your affiliates who enter into a statement of services under this agreement. "We", "us", or "our" means, the Microsoft entity that has entered into this agreement and may also refer, as the context requires, to our affiliates. In addition, the following definitions apply:

"**affiliate**" means (i) with regard to you, any government agency, department, office, instrumentality, division, unit or other entity of your state or local government that is supervised by or is part of you, or which supervises you or of which you are a part, or which is under common supervision with you; together with, as mandated by law, any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality located within your state's jurisdiction and geographic boundaries; provided that a state and its affiliates shall not, for purposes of this definition, be considered to be affiliates of the federal government and its affiliates; and (ii) with regard to us, any legal entity that we own, which owns us, or which is under common ownership with us. "**Ownership**" means more than 50% ownership.

"**contractor(s)**" means any third party supplier or other provider of computer technology or related services;

"**developments**" means any computer code or materials (other than products, fixes or pre-existing work) developed by us or in collaboration with you which is provided to you in the course of performance of a statement of services;

"**fixes**" means product fixes, modifications or enhancements or their derivatives that we either release generally, (such as commercial product service packs) or that we provide to you when performing services (such as workarounds, patches, bug fixes, beta fixes and beta builds);

"**joint ownership**" means each party has the right to independently exercise any and all rights of ownership now known or here after created or recognized, including without limitation the rights to use, reproduce, modify and distribute the developments for any purpose, without the need for further authorization to exercise any such rights or any obligation of accounting or payment of royalties;

"**open source license terms**" means license terms that require computer code to be generally (i) disclosed in source code form to third parties; (ii) licensed to third parties for the purpose of making derivative works; or (iii) redistributable to third parties at no charge;

"**pre-existing work**" means computer code or materials (other than products and fixes) developed or otherwise obtained independently of the efforts of a party under a Statement of Services;

"**product**" means any computer code, web-based services, or materials comprising commercially released, pre-release or beta products (whether licensed for a fee or no charge) and any derivatives of the foregoing we make available to you for license which is published by us, our affiliates, or a third party;

"**service deliverables**" means any computer code or materials, other than products or fixes, that we leave with you at the conclusion of our performance of services;

"**services**" means all support, consulting and other services or advice, including any resulting deliverables provided to you under the terms and conditions of this agreement;

"**statement of services**" means any work orders, services descriptions, or other statement of services referencing this agreement.

2. **Services.** The precise scope of the services will be specified in a statement of services. You or any of your affiliates may enter into statements of services under this agreement with our local affiliate. Our ability to deliver the services depends upon your full and timely cooperation, as well as the accuracy and completeness of any information you provide. This agreement does not obligate either party or its affiliates to enter into any statements of services.



3. **Ownership and license of service deliverables.**

- a. **Products and fixes.** All products, related solutions and fixes provided under a statement of services will be licensed according to the terms of the license agreement packaged with or otherwise applicable to such product. You are responsible for paying any licensing fees associated with products.
- b. **Pre-existing work.** All pre-existing work will remain the sole property of the party providing the pre-existing work. During the performance of services, each party grants to the other (and our contractors as necessary) a temporary, non-exclusive license to use, reproduce and modify any of its pre-existing work provided to the other party solely for the performance of such services.

Except as may be otherwise explicitly agreed to in a statement of services, upon payment in full, we grant you a non-exclusive, perpetual, fully paid-up license to use, reproduce and modify (if applicable) our pre-existing work in the form delivered to you as part of the service deliverables only for your internal business operations.

The perpetual license to our pre-existing work that we leave to you at the conclusion of our performance of the services is conditioned upon your compliance with the terms of this agreement and the applicable statement of services.

- c. **Developments.** Except as may be otherwise explicitly agreed to in a statement of services, upon payment in full we grant you joint ownership in the developments. You agree to exercise your rights for your internal business operations only and you will not resell or distribute the developments to any third party. Each party shall be the sole owner of any modifications that it makes based upon the developments.
- d. **Affiliates rights and sublicensing to affiliates.** Except as may be otherwise explicitly agreed to in a statement of services, you may sublicense the rights to the service deliverables granted hereunder to your affiliates, but you or your affiliates may not further sublicense these rights.

Any sublicensing of the service deliverables to your affiliates, if permitted, must be consistent with the license terms in this agreement or in any statement of services.

- e. **Open source license restrictions.** Because certain third party software is subject to open source license terms, the license rights that each party has granted to any computer code (or any intellectual property associated therewith) do not include any license, right, power or authority to incorporate, modify, combine and/or distribute that computer code with any other computer code in a manner which would subject the other's computer code to open source license terms. Furthermore, each party warrants that it will not provide or give to the other party computer code that is governed by open source license terms.
- f. **Reservation of Rights.** All rights not expressly granted in this section are reserved.

4. **Restrictions on use.** You may not:

- a) Rent, lease, lend, host or otherwise distribute service deliverables or fixes, except as otherwise provided in a statement of services; or
- b) Reverse engineer, de-compile or disassemble fixes or service deliverables, except to the extent expressly permitted by applicable law despite this limitation

Fixes and service deliverables licensed under this agreement are subject to U.S. export jurisdiction. You must comply with all domestic and international export laws and regulations that apply to the products, fixes and service deliverables. Such laws include restrictions on destinations, end-users, and end-use. For additional information, see <http://microsoft.com/exporting>.



5. **Supportability.** We may add support for new products or discontinue support for existing products from time-to-time. If we discontinue support for a product, we will inform you six months in advance of the discontinuation by posting the information at <http://support.microsoft.com> or any successor site. If we sell a product to another company, we will give you notice of the sale and at the time of such notice will either (i) arrange for the other company to continue the support; or (ii) continue support ourselves for 90 days to give you time to make alternative arrangements.

There may be cases where your implementation of our products cannot be effectively supported. As part of providing the support services, we will notify you if we reach that conclusion. If you do not modify the implementation to make it effectively supportable within 30 calendar days after the notice, we will not be obligated to provide additional support services for that implementation, however we will continue to provide support for your other supportable implementations covered by the statement of services.

For statements of services for support, we will use commercially reasonable efforts to provide the support services for those products covered in the statement of services, provided they are validly licensed by you.

6. **Fees.** You agree to pay us (or our designees) the fees described in each statement of services. The fees do not include fees for products. Unless otherwise stated in a statement of services, (i) you agree to pay within 30 calendar days of the date of our invoice; and (ii) we will not change our hourly rates identified in a statement of services during its term, but we may adjust our hourly rates prior to entering any new or amended statement of services. Our fees exclude any taxes, duties, tariffs, levies or other governmental charges or expenses (including, without limitation, any value added taxes), which will be billed to and paid by you. Microsoft understands that you are exempt from taxes to the extent indicated in any tax exemption form provided by you. However, you agree that you will pay any taxes, duties, tariffs, levies or other governmental charges or expenses (including, without limitation, any value added taxes), which are not included in our fees, and which are not covered by such tax exemption form or that are exempt under Tennessee State and/or Federal Law. We may, at our option, assess a finance charge of the lesser of 18% per annum, accrued, calculated and payable monthly or the highest amount allowed by law on all past due amounts. We will have no obligation to continue to provide services if you fail to make timely payment. Notwithstanding anything in this section to the contrary, the State will pay and Microsoft can access finance charges to the State according to the Tennessee Prompt Pay Act found at Tenn. Code Ann. §12-4-701 et seq.

7. **Confidentiality.** Subject to the requirements of your public records and trade secret laws (if any):

- a. **Confidential information.** Confidential information means information marked or otherwise identified in writing by a party as proprietary or confidential or that, under the circumstances surrounding the disclosure, ought in good faith to be treated as proprietary or confidential. It includes, but is not limited to, non-public information regarding either party's products, features, marketing and promotions, and the negotiated terms of this agreement and any statement of services.

Confidential information does not include information which: (i) the recipient developed independently; (ii) the recipient knew before receiving it from the other party; or (iii) is or subsequently becomes publicly available or is received from another source, in both cases other than by a breach of an obligation of confidentiality.

- b. **Use of confidential information.** For a period of five years after initial disclosure, neither party will use the other's confidential information without the other's written consent except in furtherance of this business relationship or as expressly permitted by this agreement or disclose the other's confidential information except (i) to obtain advice from legal or financial consultants, or (ii) if compelled by law, in which case the party compelled to make the disclosure will use its best efforts to give the other party notice of the requirement so that the disclosure can be contested.



Each party will take reasonable precautions to safeguard the other's confidential information. Such precautions will be at least as great as those each party takes to protect its own confidential information. Each party will disclose the other's confidential information to its employees, consultants or contractors only on a need-to-know basis, provided that such employees, consultants or contractors are subject to confidentiality obligations no less restrictive than those contained herein. When confidential information is no longer necessary to perform any obligation under any statement of services, each of us will return it to the other party or destroy it at the other's request.

Either party may provide suggestions, comments or other feedback to the other with respect to the other's products and services. Feedback is voluntary and the party receiving feedback may use it for any purpose without obligation of any kind except that the party receiving feedback will not disclose the source of feedback without the consent of the party providing it.

- c. **Cooperation in the event of disclosure.** Each party will immediately notify the other upon discovery of any unauthorized use or disclosure of the other party's confidential information and will cooperate in any reasonable way to help the other regain possession of the confidential information and prevent further unauthorized use or disclosure.
- d. **Knowledge base.** We may use any technical information we derive from providing services related to our products for problem resolution, troubleshooting, product functionality enhancements and fixes, for our knowledge base. We agree not to identify you or disclose any of your confidential information in any item in the knowledge base.
- e. Notwithstanding anything in this section 7 to the contrary, the State is subject to and will comply with the Tennessee Public Records Act found at Tenn. Code Ann. Title 10 Chapter 7 Part 5.

8. Warranties.

a. **Services.** We warrant that all services will be performed with professional care and skill.

b. **No other warranties.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM AND EXCLUDE ALL REPRESENTATIONS, WARRANTIES, AND CONDITIONS WHETHER EXPRESS, IMPLIED OR STATUTORY OTHER THAN THOSE IDENTIFIED EXPRESSLY IN THIS AGREEMENT (INCLUDING ANY STATEMENT OF SERVICES THAT INCORPORATES THESE TERMS), INCLUDING BUT NOT LIMITED TO WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE PRODUCTS, FIXES, SERVICE DELIVERABLES, RELATED MATERIALS AND SERVICES. WE WILL NOT BE LIABLE FOR ANY SERVICE(S) OR PRODUCT(S) PROVIDED BY THIRD PARTY VENDORS, DEVELOPERS OR CONSULTANTS IDENTIFIED OR REFERRED TO YOU BY US UNLESS SUCH THIRD PARTY PRODUCTS OR SERVICES ARE PROVIDED UNDER OUR WRITTEN AGREEMENT BETWEEN YOU AND US, AND THEN ONLY TO THE EXTENT EXPRESSLY PROVIDED IN THIS AGREEMENT.

9. **Defense of infringement and misappropriation claim.** We will defend you against any claims made by an unaffiliated third party that any service deliverable infringes its patent, copyright, or trademark or misappropriates its trade secret, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent).

You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance in defending the claim, and we will reimburse you for reasonable out of pocket expenses that you incur in providing that assistance. The terms "misappropriation" and "trade secret" are used as defined in the Uniform Trade Secrets Act. Notwithstanding anything in this paragraph to the contrary, the State of Tennessee does not accord to Microsoft through its attorney(s), any



right to represent the State of Tennessee in any legal matter, such rights being governed by Tennessee Code Annotated, Section 8-6-106.

Our obligations will not apply to the extent that any claim or adverse final judgment is based on (i) computer code or materials (e.g. specifications) you provide; (ii) your use of a fix or service deliverables after we notify you to discontinue use due to such a claim; (iii) your combining a fix or service deliverables with a non-Microsoft product, data or business process; (iv) damages attributable to the value of the use of a non-Microsoft product, data or business process; (v) an alteration of fixes or service deliverables by someone other than us or our contractors; (vi) your distribution of the fix or services deliverables to, or its use for the benefit of, any third party other than permitted by an applicable statement of services; (vii) your use of our trademark(s) without express written consent to do so; or (viii) any trade secret claim that is a result of your acquiring a trade secret (a) through improper means; (b) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (c) from a person (other than us or our affiliates) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the trade secret. You will reimburse us for any costs or damages that result from these actions.

If we receive information concerning an infringement claim related to a fix or service deliverables, we may, at our expense and without obligation to do so, either (i) procure for you the right to continue to use the allegedly infringing fix or service deliverables as permitted by the applicable statement of services; or (ii) modify the fix or service deliverables or replace it with a non-infringing functional equivalent, to make it non-infringing, in which case you will stop using the allegedly infringing fix or service deliverables immediately. If as a result of an infringement claim, your use of a fix or service deliverables is enjoined by a court of competent jurisdiction, we will, at our option, either i) procure the right to continue its use; ii) modify it to make it non-infringing; iii) replace it with a non-infringing functional equivalent; or iv) refund the amount paid for the infringing fix or service deliverables and terminate the license for (or as applicable, your ownership rights in) the infringing fix or service deliverable.

If any other type of third party claim is brought against you regarding our intellectual property, you must notify us promptly in writing. We may, at our option, choose to treat these claims as being covered by this Section 9. This Section 9 provides your exclusive remedy for third party infringement and trade secret misappropriation claims. Notwithstanding anything in this paragraph to the contrary, any provision or provisions of this paragraph will not apply to the extent they are (it is) finally determined by a court of competent jurisdiction, including appellate review if pursued, to violate the laws or Constitution of the State of Tennessee.

10. *Limitations of liability.*

- a. **Limitation on Direct Damages.** There may be situations in which you have a right to claim damages or payment from us. Except as otherwise specifically provided in this paragraph, whatever the legal basis for your claims, our total liability (and that of our contractors) will be limited, to the maximum extent permitted by applicable law, to direct damages up to two times the amount of any applicable statement of services for the services giving rise to the claims. Notwithstanding the provisions of Tennessee Annotated Code Section 12-3-315, this aforementioned limitation of liability shall remain unchanged and in effect throughout the duration of this Agreement, including extensions, if any. In the event services or any service deliverables are provided to you on a gratuitous or no-charge basis, our total liability to you will not exceed US\$5000. The limitations contained in this paragraph will not apply with respect to the following:
- (i) our obligations under Section 9;
 - (ii) our liability for damages for gross negligence or willful misconduct, to the extent caused by us or our contractors and awarded by a court of final adjudication; and
 - (iii) our obligations under Section 6.
- b. **NO LIABILITY FOR CERTAIN DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY NOR THEIR AFFILIATES, SUPPLIERS OR CONTRACTORS WILL BE LIABLE FOR ANY INDIRECT DAMAGES (INCLUDING WITHOUT



LIMITATION, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, DAMAGES FOR LOSS OF PROFITS OR REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION), ARISING IN CONNECTION WITH THIS AGREEMENT, ANY STATEMENT OF SERVICES, SERVICES, SERVICE DELIVERABLES, FIXES, PRODUCTS, OR ANY OTHER MATERIALS OR INFORMATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. THIS EXCLUSION OF LIABILITY DOES NOT APPLY TO EITHER PARTY'S LIABILITY TO THE OTHER FOR VIOLATION OF ITS CONFIDENTIALITY OBLIGATION, REDISTRIBUTION OR OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

- c. **Application.** Except as specified expressly in this Section 10, the limitations on and exclusions of liability for damages in this agreement apply regardless of whether the liability is based on breach of contract, tort (including negligence), strict liability, breach of warranties, or any other legal theory.
- d. Notwithstanding anything in this paragraph to the contrary, any provision or provisions of this section will not apply to the extent they are (it is) finally determined by a court of competent jurisdiction, including appellate review if pursued, to violate the laws or Constitution of the State of Tennessee.

11. **Term and termination.** This agreement will remain in effect for a period of five (5) years from its effective date, unless otherwise mutually extended in writing by both parties. The parties signing the cover page of this agreement may terminate it at any time by giving the other party at least 60 calendar days prior written notice.

Either party signing the cover page may terminate this agreement if the other party is in material breach or default of any obligation that is not cured within 30 calendar days notice of such breach.

The sole effect of terminating this agreement will be to terminate the ability of either party to enter into subsequent statements of services that incorporate the terms of this agreement. Termination of this agreement will not, by itself, result in the termination of any statements of services previously entered into (or extensions of the same) that incorporate the terms of this agreement, and the terms of this agreement will continue in effect for purposes of such statements of services unless and until the statement of services itself is terminated or expires.

The term of any statement of services will be set forth in an applicable statement of services. In addition, unless otherwise provided in a statement of services, your affiliate that signed the statement of services may terminate it for any reason by giving our affiliate that signed the statement of services 30 calendar days prior written notice. Either party signing a statement of services may terminate it if the other party is (i) in material breach or default of any obligation that is not cured within 30 calendar days notice of such breach or (ii) fails to pay any invoice that is more than 60 calendar days outstanding. You agree to pay all fees for services performed and expenses incurred prior to termination and any additional amounts that may be specified in a statement of services.

12. **Notices.** All notices, authorizations, and requests given or made in connection with this agreement must be sent by post, express courier, facsimile or email to the addresses indicated on the cover page of this agreement or on an applicable statement of services, if different. Notices will be deemed delivered on the date shown on the postal return receipt or on the courier, or facsimile or email confirmation of delivery.

13. **Insurance.** We will procure and maintain the following insurance coverage, at all times when performing services on your premises under this agreement, via either commercial insurance, self-insurance, a combination of the two or any other similar risk financing alternative:

- a) Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$2,000,000 each occurrence;



- b) Workers' Compensation (or maintenance of a legally permitted and governmentally-approved program of self-insurance) covering Microsoft employees pursuant to applicable state workers' compensation laws for work-related injuries suffered by our employees;
- c) Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;
- d) Professional Liability/Errors & Omissions Liability covering damages arising out of negligent acts, errors, or omissions committed by us or our employees in the performance of services, with a limit of liability of not less than U.S. \$2,000,000 per claim; and
- e) Automobile Liability (if vehicles are brought on your premises or used in the performance of the services) with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, non-owned and hired vehicles.

We will provide you with evidence of coverage on request.

14. **Miscellaneous.**

- a. **Assignment and right to subcontract.** Neither party may assign this agreement or any statement of services without the written consent of the other. We may use contractors to perform services and we will be responsible for their performance subject to the terms of this agreement.
- b. **Independent contractor.** We provide our services as an independent contractor, and will be responsible for any and all social security, unemployment, workers' compensation and other withholding taxes for all of our employees. You and we are free to develop products independently without the use of the other's confidential information. Neither you nor we are obligated to restrict the future work assignments of people who have had access to confidential information. In addition, you, we and these people are free to use the information that these people remember related to information technology, including ideas, concepts, know-how or techniques, so long as confidential information of the other party is not disclosed in violation of this agreement in the course of such use. This use shall not grant either party any rights under the other's copyrights or patents and does not require payment of royalties or separate license.
- c. **Applicable law; dispute resolution.** This agreement together with the applicable statement of services will be governed by the laws of your state, without giving effect to its conflict of law provisions. Disputes relating to this agreement will be subject to applicable mandatory dispute resolution statutes and regulations of your state.
- d. **Entire agreement.** This agreement and the statements of services constitute the parties' entire agreement concerning the subject matter hereof, and supersede any other prior and contemporaneous communications. The terms of these documents will control in the following order: (i) this agreement; (ii) and statement of services; and (iii) the State's Invitation to Bid (if applicable). Any terms and conditions maintained by you or your affiliates or contained in any purchase order, other than those mandatory terms required by law will not apply. Terms of an Invitation to Bid that do not conflict with this agreement or statement of service, will apply. The parties signing the cover page of this agreement may amend this agreement only in writing when signed by both parties. The parties signing a statement of services may amend the statement of services only in writing when signed by both parties.
- e. **Survival.** The sections regarding ownership and license, restrictions on use, fees, confidentiality, no other warranties, defense of infringement and misappropriation claims, limitations of liability, term and termination, notices, and miscellaneous of this agreement will survive any termination or expiration of this agreement or any statement of services. Additionally, as provided in Section 11 above, if this agreement is terminated all its terms shall survive termination for purposes of any remaining statement of services in existence at the time this agreement is terminated.



- f. **Severability.** If a court holds any provision of this agreement or a statement of services to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect and the parties will amend the agreement or statement of services to give effect to the stricken clause to the maximum extent possible.
- g. **Waiver.** No waiver of any breach of this agreement or statement of services will be a waiver of any other breach, and no waiver will be effective unless made in writing and signed by an authorized representative of the waiving party.
- h. **Force majeure.** To the extent that either party's performance is prevented or delayed, either totally or in part, for reasons beyond that party's control, then that party will not be liable, so long as it resumes performance as soon as practicable after the reason preventing or delaying performance no longer exists.
- i. **Counterparts.** This agreement and any statements of services may be executed in any number of counterparts, each of which will be an original, and such counterparts together will constitute one and the same instrument. Execution may be effected by delivery of facsimiles of signature pages (and the parties will follow such delivery by prompt delivery of originals of such pages).
- j. **Cost or pricing data.** We will not, under any circumstances, accept any statement of services that would require the submission of cost or pricing data.
- k. **Non-exclusivity.** This agreement (including any statement of services incorporating these terms) is non-exclusive. Nothing contained in it requires you to license, use or promote Microsoft software or services exclusively. You may, if you choose, enter into agreements with other parties to license, use or promote non-Microsoft software or services.



ATTACHMENT 3

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	MICROSOFT CORPORATION
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

David T. Gallagher

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

David T. Gallagher Director of Contracts

PRINTED NAME AND TITLE OF SIGNATORY

9-26-13

DATE OF ATTESTATION