Contract #060327

for

Recruitment Software

Between the

Center for Information Services

And

AZORUS, Inc.

Effective Date: _____

SOFTWARE LICENSE and HOSTED SERVICES CONTRACT

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SOFTWARE LICENSE and HOSTED SERVICES CONTRACT NUMBER
060327

PARTIES

This Software License and Hosted Services Contract (hereinafter referred to as "Contract") is entered into by and between the State of Washington, acting by and through the Center for Information Services, an agency of Washington State government located at 3101 Northup Way, Bellevue, WA 98004-1449 (hereinafter referred to as "CIS") on behalf of the Washington State Community and Technical Colleges (hereinafter referred to as "the Colleges" or "the Purchasers") and AZORUS Inc., a corporation, (hereinafter referred to as "Vendor"), located at 1668 Barrington Street, Suite 600 Halifax, NS, Canada B3J 2A2, for the purpose of providing Recruitment Software products.

RECITALS

WHEREAS, the State of Washington, acting by and through CIS, conducted a Technology Assessment competitive solicitation (Exhibit A) as specified in the State of Washington Information Services Board (ISB) Information Technology Investment Standards to contract for products and services in accordance with its authority under chapter 43.105 RCW; and,

WHEREAS, AZORUS Inc. submitted a timely proposal to CIS's competitive solicitation (Exhibit B); and,

WHEREAS, representatives from Washington's Community and Technical Colleges evaluated all proposals properly submitted in response to the above-referenced competitive solicitation and identified AZORUS Inc. as the apparent successful Vendor; and,

WHEREAS, CIS has determined that entering into a Contract with AZORUS Inc. will meet the needs of the Purchasers and will be in the Purchasers' best interest;

NOW THEREFORE, CIS awards to AZORUS Inc. this Software License Contract which shall govern Vendor's furnishing to the Colleges Software products, Hosted Services and other Related Services as indicated on Schedule A, Authorized Product and Services Price List (attached hereto), in accordance with the terms and conditions of this Contract. This Contract is not for personal use.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

1. DEFINITIONS

Definitions as used throughout this Contract shall have the meanings set forth below.

"ASP" shall mean Application Service Provider, which is synonymous with the term Hosted Services.

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

"CIS" shall mean the same as the Center for Information Services.

"CIS Contract Administrator" shall mean that person designated by the CIS to administer this Contract on behalf of Purchasers as further defined in the section titled CIS Contract Administrator.

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

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

"Escrow Agreement" shall mean the attachment to this Contract containing the Software Escrow Agreement entered into by Purchaser and Vendor.

"Execution Date" shall mean the date of the last signature of a party to this Contract.

"Exhibit A" shall mean the competitive solicitation for Recruitment Software issued by the Washington State Center for Information Services dated September 26, 2005.

"Exhibit B" shall mean the Vendor's response dated October 17, 2005.

"FEIN" shall mean the Vendor's Federal Employer Identification Number (if applicable).

"Hosted Services" shall mean software accessed remotely via the web and other related support services.

"Initial Term" shall mean the first term of the Contract assigned in Section 4 of this Contract during which the terms, conditions, and pricing shall remain fixed unless changed in writing by a CIS Amendment to the Contract agreed to by the Vendor.

"License" shall mean the right to use the Software that is granted by this Contract and governed by its terms and conditions.

"Licensed Software" shall mean Software that is licensed pursuant to this Contract.

"Order Document" shall mean any official Purchaser document and attachments thereto specifying the Software to be purchased from the Vendor under this Contract.

"Purchaser" shall mean the Colleges. .

"RCW" shall mean the Revised Code of Washington (Washington State Law).

"Related Services/Services" shall mean those Services provided under this Contract and related to the Software licenses and Services being acquired, that are appropriate to the scope of this Contract and includes such things as installation Services, maintenance, training, etc.

"Software" shall mean the object code version of computer programs and any related documentation, excluding maintenance diagnostics. Software also means the source code version, where provided by Vendor.

"Specifications" shall mean the technical and other specifications set forth in the Technology Assessment competitive solicitation, Exhibit A, and any additional specifications set forth in Vendor's Response, Exhibit B, collectively.

"SSN" shall mean the Vendor's Social Security Number if used in lieu of Federal Employer Identification Number as the Vendor's Federal Tax Identification Number (if applicable).

"Subscriber" shall mean Washington State's community and technical colleges.

"Subscription" shall mean the right to receive hosted services as specified under this Contract for one year.

"Subsequent Terms" shall mean the terms of the Contract following the Initial term.

"TIN" shall mean the Vendor's Federal Tax Identification Number which may be either FEIN or SSN (if applicable).

"UBI" shall mean the Vendor's Uniform Business Identifier issued by the Washington State Department of Revenue.

"Vendor" shall mean AZORUS Inc., its employees and agents. "Vendor" also includes any firm, provider, organization, individual, or other entity performing Services under this Contract. It shall also include any Subcontractor retained by Vendor as permitted under the terms of this Contract.

"Vendor Contract Administrator" shall mean a representative of the Vendor who is assigned as the primary contact person with whom the CIS Contract Administrator shall work for the duration of this Contract unless replaced, with advance CIS approval, by another representative.

LICENSE GRANT

2.   License Grant – For on site installations

2.1.   Vendor grants to Purchaser a non-exclusive, non-transferable, perpetual, irrevocable license to use the Software and related documentation according to the terms and conditions of this Contract unless stated otherwise.

2.2   Purchaser will not decompile or disassemble any Software provided under this Contract or modify Software which bears a copyright notice of any third party.

2.3   Purchaser may copy each item of Software to single or multiple hard drives as needed.

2.4   Purchaser will make and maintain no more than one archival copy of each item of Software, and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original. Purchaser may also make copies of the Software in the course of routine backups of hard drive(s) for the purpose of recovery of hard drive contents.

2.5   In the event that Vendor shall, for any reason, cease to conduct business, or cease to support the Software licensed under this Contract, Purchaser shall have a right to convert the Software licenses into perpetual licenses, with rights of quiet enjoyment, but subject to payment obligations not to exceed the then current rates.

2.6   Vendor understands that Purchaser may provide information processing Services to other users that are agencies of state government and other tax supported entities. Software delivered hereunder may be used in the delivery of these Services. Vendor acknowledges and agrees that said use of Software products is acceptable under the licensing agreements contained herein.

2.7   Purchaser may move Software from one device to another provided such Software is completely removed from the first device after a reasonable testing period on the new device.

2.8   No licenses are granted for the ASP (Application Service Provider) hosted solution.

3. Escrow – For on site installations

    3.1. Source Code Escrow Package Definition. The term "Source Code Escrow Package" shall mean:

        - A complete copy in machine-readable form of the source code and executable code of the licensed Software;

        - A complete copy of any existing design documentation and user documentation; and/or

        - Complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. Such instructions shall include precise identification of all compilers, library packages, and linkers used to generate executable code.

    3.2. Delivery of Source Code into Escrow. Vendor shall deliver a Source Code Escrow Package to Escrow Agent, provided that Vendor, Purchaser, and Escrow Agent shall first enter into a supplementary Escrow Agreement attached as Schedule D. Vendor and Purchaser shall use best efforts to enter into such an Escrow Agreement as soon as possible after the Effective Date of this Contract, but not later than thirty (30) days after the Effective Date of this Contract.

    3.3. Delivery of New Source Code into Escrow. If during the term of this Contract, term of license, or term of maintenance and support, Vendor provides Purchaser with a maintenance release or upgrade version of the licensed Software, Vendor shall within ten (10) Business Days deposit with Escrow Agent a Source Code Escrow Package for the maintenance release or upgrade version and give Purchaser notice of such delivery.

    3.4. Verification of Source Code Escrow Package. At its option and expense, Purchaser may request that the completeness and accuracy of any Source Code Escrow Package be verified. Such verification may be requested once per Source Code Escrow Package. Such verification will be conducted by Escrow Agent or, upon at least ten (10) Business Days' prior notice to Vendor, by another party ("Verifier") acceptable to Vendor, after full disclosure to Vendor of information reasonably requested by Vendor about Verifier. Prior to conducting the verification, Verifier shall first execute a confidentiality agreement prepared by Vendor that precludes Verifier from disclosing any information to Purchaser about the Source Code Escrow Package other than whether the Source Code Escrow Package was found to be complete and accurate. Unless otherwise agreed at the time by Vendor and Purchaser, verification will be performed on-site at Vendor's premises, utilizing Vendor's equipment and software, at a time reasonably acceptable to Vendor. Vendor shall make technical and support personnel available as reasonably necessary for the verification.At its discretion, Vendor may designate a representative to accompany the Source Code Escrow Package

at all times, and to be present at the verification. Verifier will be Purchaser's sole representative at the verification. Verifier is solely responsible for the completeness and accuracy of the verification. Neither the Escrow Agent, if different from the Verifier, nor Vendor shall have any responsibility or liability to Purchaser for any incompleteness or inaccuracy of any verification.

3.5. Escrow Fees. All fees and expenses charged by Escrow Agent will be borne by Vendor.

3.6. Release Events for Source Code Escrow Packages. The Source Code Escrow Package may be released from escrow to Purchaser, temporarily or permanently, solely upon the occurrence of one or more of the following "Escrow Release Events:"

- Vendor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for business or assets, or becomes subject to any proceeding under any bankruptcy or involvency law, whether domestic or foreign;

- Vendor has wound up or liquidated its business voluntarily or otherwise and Purchaser has compelling reasons to believe that such events will cause Vendor to fail to meet its warranties and maintenance obligations in the foreseeable future; or

- Vendor has voluntarily or otherwise discontinued support of the Software or fails to support the Software in accordance with its warranties and maintenance obligations.

3.7. Release Event Procedures. If Purchaser desires to obtain the Source Code Escrow Package from Escrow Agent:

- Purchaser shall comply with the procedures set forth in the Escrow Agreement to document the occurrence of the Release Event;

- Purchaser shall maintain all materials and information comprising the Source Code Escrow Package in confidence in accordance with the Contract section titled Vendor's Proprietary Information;

- If the release is temporary, Purchaser shall promptly return all released materials to Vendor when the circumstances leading to the release are no longer in effect; and

- Purchaser shall promptly, fully, and completely respond to any and all requests for information from Vendor concerning Purchaser's use or contemplated use of the Source Code Escrow Package.

3.8. In the event of any inconsistency between the terms of the Escrow Agreement attached as Schedule D and the terms of this section, the terms of this section shall take precedence.

4. Term

4.1 The License term for Software purchased for on site installations at college campuses under this Contract shall be perpetual unless stated otherwise.

4.2. Term of Contract for Software purchases for on site installations.

    4.2.1 Initial Term. The initial term for Software purchases under this Contract shall be five (5) years, commencing upon the date of its execution by both the parties. The Execution Date of this Contract shall be the date of the last signature hereto.

    4.2.2 Subsequent Terms. The term of this Contract for Software purchases may be extended by additional one (1) year terms unless terminated by CIS by giving written notice of its decision not to renew to the Vendor not less than thirty (30) calendar days prior to the expiration of the then current Contract term. No change in terms and conditions shall be permitted during these extensions unless specifically set forth in this Contract.

4.3. Term of Contract for fully hosted solution known as an ASP Model (Application Service Provider).

    4.3.1 Initial Term. The initial term for the acquiring Subscriptions under this Contract shall be five (5) years, commencing upon the date of its execution by both the parties. The Execution Date of this Contract shall be the date of the last signature hereto.

    4.3.2 Subsequent Terms. The term for acquiring Subscriptions under this Contract may be extended by additional one (1) year terms unless terminated by CIS by giving written notice of its decision not to renew to the Vendor not less than thirty (30) calendar days prior to the expiration of the then current Contract term. No change in terms and conditions shall be permitted during these extensions unless specifically set forth in this Contract.

4.4. Term of Subscriptions.

    4.4.1 Subscription Term. The term of Subscriptions for the hosted services provided for under this Contract shall be one year from the "Go Live Date" indicated on each College's Subscription Form (Schedule C). Subscriptions will expire one year from this date.

4.4.2 Subscription Renewals. Subscriptions shall be renewed annually by the submission of the Subscription Form to AZORUS by each Subscriber not less than thirty (30) calendar days prior to the expiration of the then current Subscription. Renewals shall not occur automatically. They must be initiated by AZORUS's receipt of the Subscription Form submitted by each participating college.

5. Survivorship

All transactions executed pursuant to the authority of this Contract shall be bound by all of the terms, conditions, prices and rates set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive. In addition, the terms of the sections titled <u>Disputes</u>, <u>Escrow</u>, <u>Limitation of Liability</u>, <u>Patent and Copyright Indemnification</u>, and <u>Protection of Purchaser's Confidential Information</u> shall survive the termination of this Contract.

PRICING, INVOICE, AND PAYMENT

6. Pricing

6.1. Vendor agrees to provide purchased Software, Hosted Services, and other Related Services at the costs, rates, and fees set forth in the Authorized Product, Services, and Price List attached as Schedule A to this Contract. No other costs, rates, or fees shall be payable to the Vendor.

6.2. At least one hundred-twenty (120) days before the end of the Initial Term of this Contract, Vendor may propose price increases by written notice to the CIS Contract Administrator. Price increases shall be limited to the percent change in the U.S. Department of Labor Consumer Price Index for the Seattle metropolitan area for the calendar year prior to the renewal date. Price adjustments will be taken into consideration by the CIS Contract Administrator when determining whether to extend this Contract.

7. Taxes

The Purchaser shall pay sales and use taxes imposed on the Software acquired hereunder if required. The Vendor must pay all other taxes including, but not

limited to, Washington Business and Occupation Tax, taxes based on the Vendor's income, or personal property taxes levied or assessed on the Vendor's personal property to which the Purchaser does not hold title if required. Purchaser, as an agency of the Washington State government, is exempt from property tax.

8.   Invoice and Payment

Invoices for work performed shall be submitted, in writing to the Purchaser, in a format designated by the Purchaser. Each college will submit a purchase order to vendor and be invoiced directly. In addition to agreed-upon charges, invoices shall include such information as is necessary for Purchaser to determine the exact nature of all expenditures and shall reference this Contract number 060327. Additional payment terms or invoice instructions may be agreed upon by the Purchaser and the Vendor. Each College shall submit a purchase order to Vendor and Vendor shall invoice them directly.

8.1.   Vendor will submit properly itemized invoices and/or vouchers to the Purchaser. Invoices shall provide and itemize, as applicable:

a)   Contract number 060327*;*

b)   Description of Software, including quantity ordered;

c)   Net invoice price for each item;

d)   Applicable taxes;

e)   Shipping costs;

f)   Other applicable charges;

g)   Total invoice price; and

h)   Payment terms including any available prompt payment discounts.

9.   Such payments shall be due and payable within thirty (30) calendar days after receipt of properly prepared invoices.

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

8.2.   The Contract number must appear on all invoices, bills of lading, packages, and correspondence relating to this Contract. The Purchaser shall not honor drafts, nor accept goods on a sight draft basis.

9.   Overpayments to Vendor

Upon notice thereof, Vendor shall promptly refund to Purchaser the full amount of any erroneous payment or overpayment to which Vendor is not entitled pursuant to this Contract.

10. Software Ownership

Vendor shall maintain all title, copyright, and other proprietary rights in the Software. Purchaser does not acquire any rights, express or implied, in the Software, other than those specified in this Contract. Vendor, as Licensor, hereby warrants and represents to Purchaser as licensee that Vendor is the owner of the Software licensed hereunder or otherwise has the right to grant to Purchaser the licensed rights to the Software provided by Vendor through this Contract without violating any rights of any third party, and that there is currently no actual or threatened suit by any such third party based on an alleged violation of such right by Vendor.

11. Software Delivery

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

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

12. Risk of Loss and Shipping

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

13. Installation of Software by Purchaser

All installation of the Licensed Software purchased pursuant to this Contract for use by Purchaser will be governed by the methods detailed in AZORUS' response to the RFQQ and by the specifications in Schedule A.

14. Software Maintenance and Support Services

Vendor shall provide a replacement copy or correction service at no additional cost to the Purchaser for any error, malfunction, or defect, if any, in the Vendor-supplied Software which, when used as delivered, fails to perform in accordance with Vendor's officially announced technical specifications or Vendor's proposal and which the Purchaser shall bring to Vendor's attention. Vendor shall undertake such correction service as set forth below and shall use its best efforts to make corrections in a manner that is mutually beneficial. Vendor shall disclose all known defects and their detours or workarounds to the Purchaser

In addition, Vendor shall provide the following Services:

14.1 Telephone Support. Vendor will provide telephone support, toll-free in the United States, to Purchaser during Business Days and Hours. Vendor's telephone service shall include but is not limited to the following Services:

14.1.1 Assistance related to questions on the use of the subject Software;
14.1.2 Assistance in identifying and determining the causes of suspected errors or malfunctions in Software;
14.1.3 Advice on detours or workarounds for identified errors or malfunctions, where reasonably available;
14.1.4 Information on errors previously identified by Purchaser and reported to Vendor and detours to these where available; and
14.1.5 Advice on the completion and authorization for submission of the required form(s) reporting identified problems in the Software to Vendor.

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

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

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

14.2.	Maintenance Release Services. Vendor will provide error corrections and maintenance releases to the Software that have been developed by Vendor. Such releases shall be licensed to Purchaser pursuant to the terms and conditions of this Contract. Each maintenance release will consist of a set of programs and files made available in the form of machine-readable media and will be accompanied by a level of documentation adequate to inform Purchaser of the problems resolved including any significant differences resulting from the release that are known by Vendor. Vendor agrees that each maintenance release of Software will be compatible with the then current unaltered release of Software applicable to the computer system.

14.3.	When Vendor performs Services pursuant to this Contract which require the use of the Purchaser's computer system(s), the Purchaser agrees to make it available at reasonable times and in reasonable time increments, and in no event will the Purchaser charge the Vendor for such system use.

## 15.	Reauthorization Code Required

If a reauthorization code must be keyed in by Vendor for the Licensed Software to remain functional upon movement to another computer system, Vendor shall provide the reauthorization code to Purchaser within one (1) Business Day after receipt of Purchaser's notice of its machine upgrade or movement.

## 16.	Software Documentation

16.1.	Vendor will provide Software documentation at the earlier of installation of this Software or within thirty (30) calendar days after execution of this Contract or as otherwise mutually agreed, adequate for use of Software ordered under the sections of this Contract. Manual upgrades will be provided on a no-charge basis through the Vendor's local sales and service office.

16.2.	For all Vendor Software furnished to the Purchaser within the scope of this Contract, the Vendor agrees that in the event it withdraws its support, if any, from such Software, it will immediately furnish to the Purchaser, if requested, at no additional cost, sufficient documentation to permit the Purchaser to maintain, modify or enhance such purchased or Licensed Software.

16.3. Vendor grants to the Purchaser the right to copy or otherwise reproduce manuals and documentation furnished pursuant to this section, for use within the scope of this Contract at no additional charge.

17. Installation (Site) Security

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

18. Use of Purchaser's Property and Facilities

18.1. Any property of the Purchaser furnished to the Vendor shall be used only for the performance of this Contract.

18.2. The Vendor shall be responsible for any loss or damage to property of the Purchaser which results from willful misconduct or negligence on the part of the Vendor or which results from the failure on the part of the Vendor to maintain and administer that property in accordance with sound management practices to ensure that the property will be returned to the Purchaser in like condition to that in which it was furnished to the Vendor. Upon the happening of loss, or destruction of, or damage to any Purchaser property, the Vendor shall notify the Purchaser thereof and shall take all reasonable steps to protect that property from further damage.

18.3. The Vendor shall surrender to the Purchaser all property belonging to the Purchaser upon completion, termination, or cancellation of this Contract. All reference to the Vendor under this section shall include any of its employees, agents, or Subcontractors.

19. Vendor Commitments, Warranties, and Representations

19.1. Any written commitment by the Vendor within the scope of this Contract shall be binding. Failure of either party to fulfill such a commitment may constitute breach.

19.2. For purposes of this Contract, a commitment by the Vendor, which must be in writing, includes:

19.2.1 Prices, discounts, and options committed to remain in force over a specified period of time;

19.2.2 Any warranty or representation made by the Vendor in a proposal as to Software performance or any other physical,

design or functional characteristics of a machine, Software package, system, training, Services, or other products within the scope of this Contract;

19.2.3   Any warranty or representation made by the Vendor concerning the characteristics or items above, contained in any literature, descriptions, drawings or specifications accompanying or referred to in a proposal;

19.2.4   Any modification of or affirmation or representation as to the above which is made by Vendor in writing during the course of negotiation whether or not incorporated into a formal amendment to the proposal in question; and

19.2.5   Any representation by the Vendor in a proposal, supporting documents or negotiations subsequent thereto as to training to be provided, Services to be performed, prices and options committed to remain in force over a fixed period of time or any other similar matter regardless of the fact that the duration of such commitment may exceed the duration of this Contract.

20.   Year 2000 Compliance Warranty

Vendor warrants that the Software provided pursuant to this Contract is Year 2000 compliant. This warranty includes a representation that dates on and after the year 2000 do not cause computational problems nor do these dates diminish the functionality of the Software including, but not limited to, date data century recognition, calculations that accommodate same century and multi-century formulas and date values, year 2000 leap year calculations, and date data interface values that reflect the century. Failure to comply with Year 2000 requirements shall entitle Purchaser to a refund of three (3) times the initial license fee. Vendor has no liability for any failure to comply with this provision that is caused solely by failure of an interconnected third-party product to be Year 2000 compliant.

21.   Physical Media Warranty

21.1.   Vendor warrants to Purchaser that each licensed copy of the Licensed Software provided by Vendor is and will be free from physical defects in the media that tangibly embodies the copy (the "Physical Media Warranty"). The Physical Media Warranty does not apply to defects discovered more than ninety (90) calendar days after the date of receipt of the Software copy by the Purchaser.

21.2.   The Physical Media Warranty does not apply to defects arising from acts of non-Vendor employees, agents, or Subcontractors after the media has left Vendor's control in cases of theft, vandalism, fire, water, acts of God or other perils beyond the control of Vendor.

21.3.   Purchaser shall be entitled to replacement by Vendor, at Vendor's expense including shipping and handling costs, of any Software copy provided by Vendor that does not comply with this warranty.

22.   No Surreptitious Code Warranty

22.1.   Vendor warrants to Purchaser that no copy of the Licensed Software provided to Purchaser contains or will contain any Self-Help Code nor any Unauthorized Code as defined below. The warranty is referred to in this Contract as the "No Surreptitious Code Warranty."

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

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

22.4.   Vendor will defend Purchaser against any claim, and indemnify Purchaser against any loss or expense arising out of any breach of the No Surreptitious Code Warranty.

23.   Protection of Confidential Information

23.1.   Both parties acknowledge that some of the material and information which may come into its possession or knowledge in connection with this Contract or its performance, may consist of confidential data, the disclosure of which to, or use by, third parties could be damaging. Therefore, access to information concerning individual recipients of the parties' services or individual clients, among other items, shall not be granted except as authorized by law or agency rule. Both parties agree to

hold all such information in strictest confidence, not to make use thereof for other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information, and not to release or disclose it to any other party. Both parties agree to release such information or material only to Subcontractors who have signed a written agreement expressly prohibiting disclosure. Both parties further agree to either destroy or return all such information at the end of the term of this Contract.

23.2. This section does not impose any obligation on either party if the information is: (1) publicly known at the time of disclosure; (2) already known to the receiving party at the time it is furnished; (3) furnished by either party to others without restrictions on its use or disclosure; or (4) independently developed by the receiving party without use of the proprietary information.

24.   Privacy Protection

24.1   Personal information collected, used or acquired in connection with this Contract shall be used solely for the purposes of this Contract. Vendor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the Purchaser or as provided by law. Vendor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

24.2   The Purchaser reserves the right to monitor, audit, or investigate the use of personal information collected, used or acquired by the Vendor through this Contract. The monitoring, auditing or investigating may include but is not limited to "salting" by the Purchaser. Vendor shall certify return or destruction of all personal information upon expiration of this Contract. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

24.3   ASORUS agrees to maintain FERPA compliance (see http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html). Any breach of this provision may result in termination of the Contract and the demand for return of all personal information. The Vendor agrees to indemnify and hold harmless the Purchaser for any damages related to the Vendor's unauthorized use of personal information. For purposes of this provision, personal information includes but is not limited to information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, or other

activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

24.4   Pursuant to RCW 19.255.010, Disclosure, notice – Definitions – Rights, remedies, ASORUS agrees that, in the event of any breach in data security where unencrypted personal information of a College's client was, or is reasonably believed to have been, acquired by an unauthorized person, AZORUS will promptly notify CIS of the security breach and assist CIS with the notification action required under the law.

25.   Subpoena

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

Contract Termination

26.   Termination for Default

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

26.2.   In the event CIS terminates the Contract for default by the Vendor, CIS shall have the right to procure the Software or Services that are the subject of this Contract on the open market, and the Vendor shall be liable for all damages including, but not limited to: (1) the cost difference between the original Contract price for the Software or Services and the

replacement costs of such Software or Services acquired from another Vendor; (2) if applicable, all administrative costs directly related to the replacement of the Contract, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time costs; (3) any other costs to the Purchaser or CIS resulting from the Vendor's breach. The Purchaser or CIS shall have the right to deduct from any monies due to the Vendor, or that thereafter become due, an amount for damages that the Vendor will owe the Purchaser or CIS for the Vendor's default.

26.3. If either CIS or the Purchaser violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its performance obligations under this Contract, then the Vendor shall give the CIS Contract Administrator or the Purchaser, whichever is appropriate, written notice of such failure that shall be corrected by CIS or the Purchaser within thirty (30) calendar days. If Vendor's failure to perform is not so corrected, this Contract may be terminated by written notice from the Vendor to the CIS Contract Administrator. The Vendor will notify the CIS Contract Administrator of any notices given to any Purchasers for violations of the material terms and conditions before taking any action.

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

26.5. This section shall not apply to any failure(s) to perform that result from the willful or negligent acts or omissions of the aggrieved party.

27. Termination for Convenience

27.1. When it is in the best interest of the Purchaser, the CIS Contract Administrator may terminate this Contract, in whole or in part, by thirty (30) calendar days written notice to the Vendor. Invocation of the Termination for Withdrawal of Authority or Termination for Non-Allocation of Funds sections shall be deemed a termination for convenience but will not require such thirty (30) calendar days notice.

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

28. Termination for Withdrawal of Authority

In the event that the authority of the Purchaser or CIS to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, CIS may terminate this Contract under the Termination for Convenience section. This section shall not be construed so as to permit CIS to terminate this Contract in order to acquire similar Software from a third party.

29. Termination for Non-Allocation of Funds

If funds are not allocated to continue this Contract in any future period, the Purchaser will not be obligated to pay any further charges for Services including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then current period. The Purchaser or CIS agrees to notify the Vendor of such non-allocation at the earliest possible time. No penalty shall accrue to the Purchaser or CIS in the event this section shall be exercised. This section shall not be construed so as to permit the Purchaser or CIS to terminate this Contract in order to acquire similar Software or Services from a third party. In the event a Purchaser has Software or Services on order at the time of the termination of the Contract for convenience, the Purchaser shall have the option of taking delivery of the products on order at the original Contract price.

30. Termination for Conflict of Interest

30.1. CIS may terminate this Contract by written notice to the Vendor if it is found, after due notice and examination, that there is a violation by any of the parties hereto of:

30.1.1. Ethics in Public Service, chapter 42.52 RCW; or

30.1.2. Any other laws regarding ethics in public acquisitions and procurement and performance of contracts.

30.2. In the event this Contract is terminated as provided above pursuant to a violation by the Vendor, CIS shall be entitled to pursue the same remedies against the Vendor as it could pursue in the event of a breach of this Contract by the Vendor.

31. Termination Procedure

31.1. Upon termination of this Contract, CIS, in addition to any other rights provided in this Contract, may require the Vendor to deliver to the

Purchaser or CIS any property or Software specifically produced or acquired for the performance of such part of this Contract as has been terminated. The sections for the Treatment of Assets shall apply in such property transfer.

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

31.3. After receipt of a notice of termination, and except as otherwise directed by the CIS Contract Administrator, the Vendor shall:

31.3.1 Stop work under this Contract on the date, and to the extent specified, in the notice;

31.3.2 If termination is to the Software license purchase sections of this Contract, then Purchaser shall place no further orders and Vendor shall accept no further orders for additional Software license;

31.3.3 If termination is to the Software license, then except as otherwise agreed to by the parties, Purchaser shall, at its option, surrender to Vendor or destroy and provide Vendor with a certificate signed by the Purchaser attesting to the destruction of all copies of the Licensed Software purchased pursuant to this Contract and terminated by this section, remaining in the possession of Purchaser, its employees, or agents;

31.3.4 If termination is to the Maintenance and Support sections, Vendor shall complete all maintenance and support requests made prior to the date of notice of termination, notwithstanding the effective date of termination;

31.3.5 As soon as practicable, but in no event longer than thirty (30) calendar days after termination, terminate its orders and subcontracts related to the work which has been terminated and settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Purchaser to the extent required, which

approval or ratification shall be final for the purpose of this section;

31.3.6   Complete performance of such part of this Contract as shall not have been terminated by the CIS Contract Administrator;

31.3.7   Take such action as may be necessary, or as the Purchaser or CIS Contract Administrator may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Vendor and in which the Purchaser has or may acquire an interest;

31.3.8   Transfer title, excluding Licensed Software, to Purchaser and deliver in the manner, at the times, and to the extent directed by the CIS Contract Administrator, any property which is required to be furnished to Purchaser; and

31.3.9   Provide written certification to the Purchaser that the Vendor has surrendered to the Purchaser all said property.

31.4.   The Vendor shall pay within thirty (30) calendar days of notice the damages due Purchaser or CIS as the result of termination.

Disputes and Remedies

32.   Disputes

Disputes arising between any Purchaser and Vendor shall be referred to the CIS Contract Administrator for resolution. In the event the CIS Contract Administrator cannot resolve the dispute, then the dispute will be forwarded to the formal dispute resolution process:

- CIS shall appoint a member to the Dispute Panel.

- Vendor shall appoint a member to the Dispute Panel.

- CIS and the Vendor shall jointly appoint a member to the Dispute Panel.

- The Dispute Panel shall evaluate the dispute and make a determination of the dispute.

- The determination of the Dispute Panel shall be final and binding on the parties hereto.

- Each party shall bear the cost of its panel member and share equally the cost of the third panel member.

33. Attorneys' Fees and Costs

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

33.2. In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

34. Non-Exclusive Remedies

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

35. Failure to Perform

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

36. Limitation of Liability

36.1. The parties agree that neither the Vendor nor the Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except for a claim or demand based on patent or copyright infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections or any other such conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled OSHA/WISHA, Termination for Default and Review of Vendor's Records are not consequential, incidental, indirect, or special damages as that term is used in this section.

36.2. Neither the Vendor nor the Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either the Vendor or the Purchaser. Such causes may

include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the Vendor, the Purchaser, or their respective Subcontractors.

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

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

Contract Administration

37.   Notices

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law (except notice of malfunctioning Software) shall be effective if and only if it is in writing, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class certified mail, postage prepaid and return receipt requested, to the parties at the following addresses:

to **Vendor** at: AZORUS Inc.
Attention: Stephen McDonald
Barrington Street, Suite 600
Halifax, NS, Canada B3J 2A2
902-446-4501

to CIS at: CIS
Attention: Procurement Services Manager
3101 Northup Way
Bellevue, WA 98004-1449
425-803-9783
425-803-9650 fax
dpoarch@cis.ctc.edu

Notwithstanding RCW 1.12.070, such communications shall be effective upon the earlier of receipt or four (4) calendar days after mailing. The notice address as provided herein may be changed by written notice given as provided above.

## 38.	Section Headings, Incorporated Documents, and Order of Precedence

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

Each of the documents listed below is, by this reference, incorporated into this Contract as though fully set forth herein. In the event of any inconsistency in this Contract, the inconsistency shall be resolved in the following order of precedence:

38.1.	Applicable federal and state statutes, laws, and regulations;
38.2.	Sections of this Contract;
38.3.	Schedule A - Authorized Product and Price List, to this Contract;
38.4.	Schedule D – Escrow agreement;
38.5.	Exhibit A - State of Washington, CIS Technology Assessment competitive solicitation dated September 26, 2005;
38.6.	Exhibit B - Vendor's Response to the RFQQ dated October 17, 2005, including all written information provided with Vendor's response;
38.7.	All Vendor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, and other written representations the Vendor made available to the Purchaser and used to effect the sale of Software to the Purchaser, or purports the Software is fit for a particular purpose or attests to the Software's engineering level, operating condition, functions, capabilities, or merchantability.

## 39.	Entire Agreement

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

40. Additional Services and Software

Purchaser and Vendor agree that additional Services and/or Software, which are appropriate to the scope of this Contract, may be added to this Contract (Schedule A hereto) by an instrument in writing, with the mutual consent of both parties. Such writing shall include a specific description of the additional Services and/or Software, pricing and additional terms and conditions as relevant. The additional Services and/or Software shall be available under the same terms and conditions established herein, unless otherwise agreed to in a signed writing. The terms and conditions of the Vendor's Hosted Services are detailed in Schedule A, Authorized Services and Prices List.

41. Authority for Modifications and Amendments

No modification, amendment, alteration, addition, or waiver of any section or condition of this Contract shall be effective or binding unless it is in writing and signed by an authorized representative of the Vendor and the CIS Contract Administrator. Only the CIS Contract Administrator or delegate by writing shall have the express, implied, or apparent authority to alter, amend, modify, add, or waive any section or condition of this Contract on behalf of the Purchaser.

42. CIS Contract Administrator

CIS shall appoint a Contractor Administrator who will be the CIS Contract Administrator for this Contract and will provide oversight of the activities conducted hereunder. The CIS Contract Administrator will manage this Contract on behalf of the Purchaser and will be the principal point of contact for the Vendor concerning Vendor's performance under this Contract.

43. Vendor Contract Administrator

The Vendor shall appoint a Vendor Contract Administrator for the Purchaser's account. The Vendor Contract Administrator will be the principal point of contact for the CIS Contract Administrator concerning the Vendor's performance hereunder and for receipt of notices. The Vendor Contract Administrator will also serve as the focal point for business matters, support coordination, and administrative activities.

44. Independent Status of Vendor

The parties hereto, in the performance of this Contract, will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of

the other party for any purpose whatsoever, nor will the Vendor make any claim of right, privilege or benefit which would accrue to an employee under chapter 41.06 RCW, chapter 23B.16 RCW, or Title 51 RCW.

45. Governing Law

This Contract shall be governed in all respects by the law and statutes of the state of Washington. The jurisdiction for any action hereunder shall be the Superior Court for the state of Washington. The venue of any action hereunder shall be in the Superior Court for King County, Washington.

46. Assignment

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

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

47. Publicity

The Vendor agrees to submit to CIS all advertising, sales promotion, and other publicity matters relating to this Contract or any Product furnished by the Vendor wherein the Purchaser's or CIS's name is mentioned or language used from which the connection of the Purchaser's or CIS's name therewith may, in CIS's judgment, be inferred or implied. The Vendor further agrees not to publish or use such advertising, sales promotion, or publicity matter without the prior written consent of CIS.

48. Review of Vendor's Records

The Vendor and its Subcontractors shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature invoiced in the performance of this Contract and shall retain all such records for six (6) years after the expiration or termination of this Contract. Records involving matters in litigation related to this Contract shall be kept for one (1) year following the

termination of litigation, including all appeals if the litigation has not terminated within five (5) years from the date of expiration or termination of this Contract.

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

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

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

General

49.   Patent and Copyright Indemnification

49.1.   Vendor will, at its expense, defend or settle any claim against the Purchaser that Software or work products supplied hereunder infringe any patent, copyright, utility model, industrial design, mask work or trademark. Vendor will pay resulting costs, damages and attorneys' fees finally awarded provided that Purchaser:

49.1.1.   Promptly notifies Vendor in writing of the claim; and

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

49.2.   Vendor will pay all costs of such defense and settlement and any costs and damages awarded by a court or incurred by Purchaser, except costs paid to the Office of the Attorney General as legal fees. If such claim has occurred, or in Vendor's opinion is likely to occur, Purchaser agrees to permit Vendor at its option and expense, either to procure for Purchaser the right to continue using the Software or to replace or modify the same so that they become non-infringing and functionally equivalent. If use of

the Software is enjoined by a court and the Vendor determines that none of these alternatives is reasonably available, Vendor, at its risk and expense, will take back the Software and refund its depreciated value. No termination charges will be payable on such returned Software. Depreciated value shall be calculated on the basis of a useful life of five (5) years commencing on the date of purchase and shall be an equal amount per year over said useful life. The depreciation for fractional parts of a year shall be prorated on the basis of 365 days per year. In the event the Software has been installed less than one (1) year, transportation to the initial installation site paid by Purchaser shall be refunded by Vendor.

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

49.3.1. Vendor's compliance with any designs, specifications or instructions of the Purchaser;

49.3.2. Modification of the Software by Purchaser or a third party without the prior knowledge and approval of Vendor; or

49.3.3. Use of the Software in a way not specified by Vendor; unless the claim arose against Vendor's Software or Services independently of any of these specified actions.

49.4. Vendor passes through and assigns to CIS and Purchaser any and all Patent and Copyright Indemnification provided by AZORUS Inc.

50. Indemnification

Vendor shall indemnify and hold harmless purchaser and CIS from and against any damage, cost, or liability, including reasonable attorneys' fees resulting from any claim, and for any or all injuries to persons or damage to property arising from intentional, willful or negligent acts or omissions of its officers, employees, agents, or subcontractors.

51. Licensing Standards

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

52. OSHA/WISHA

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

53. UCC Applicability

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

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

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

54. Antitrust Violations

Vendor and CIS recognize that in actual economic practice overcharges resulting from antitrust violations are in fact usually borne by the Purchaser. Therefore, the Vendor hereby assigns to CIS any and all claims for such overcharges as to goods and Services purchased in connection with this Contract, except as to overcharges not passed on to the Purchaser resulting from antitrust violations commencing after the date of the bid, quotation, or other event establishing the price under this Contract.

55. Compliance with Civil Rights Laws

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

56. Quiet Possession and Usage

Vendor warrants that the Purchaser, upon paying the amounts due hereunder and performing all other covenants, terms, and conditions on its part to be performed hereunder, may and shall peacefully and quietly have, hold, possess,

and enjoy the Software for the term provided without suit, molestation, or interruption.

57. Severability

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

58. Waiver

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

59. Treatment of Assets

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

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

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

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

The Vendor shall surrender to the Purchaser all property of the Purchaser prior to settlement upon completion, termination, or cancellation of this Contract.

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

60. Vendor's Proprietary Information

Vendor acknowledges that CIS is subject to chapter 42.17 RCW, the Public Disclosure Act and that this Contract shall be a public record as defined in RCW 42.17.250 through 42.17.340. Any specific information that is claimed by the Vendor to be confidential or proprietary, must be clearly identified as such by the Vendor. To the extent consistent with chapter 42.17 RCW, CIS shall maintain the confidentiality of all such information marked confidential or proprietary. If a request is made to view Vendor's proprietary information, CIS will notify Vendor of the request and of the date that such records will be released to the requester unless Vendor obtains a court order enjoining that disclosure. If Vendor fails to obtain the court order enjoining disclosure, CIS will release the requested information on the date specified.

Contract Execution

61. Authority to Bind

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

62. Counterparts

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

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

Approved
State of Washington,
Center for Information Services

Signature	

Corey Knutsen

Print or Type Name

Executive Director

Title	Date

Approved
AZORUS Inc.

Signature	

Print or Type Name

Title	Date

Approved as to Form

Signature	

Print or Type Name

Assistant Attorney General

Title	Date

Schedule A
Authorized Product, Services, and Price List
as of March 27, 2006
for
Contract No. 060327
with
AZORUS Inc.

Vendor is authorized to sell only the products and services identified in this Schedule A at the prices set forth in this Schedule A under the above-referenced Contract.

General Background:

In the fall of 2005, a committee comprised of Student Services personnel from several Colleges was formed to evaluate recruitment software vendors for the 34 community & technical colleges of Washington. This committee known as VEST (Vendor Evaluation Selection Team) published an RFQQ (Request for Qualifications & Quotations). The RFQQ received responses from nine companies. The VEST narrowed the field down to five vendors and then finally to two. The process was rigorous and a detailed "scorecard" system was developed that included metrics such as functionality, service, price etc. AZORUS received the highest score and provided the lowest cost.

The Proposed Solution from AZORUS:

The AZORUS recruitment management system handles transactions relating to student recruitment and relationship building for the lifecycle of the student. Recognizing that retention is also a major component for all colleges, AZORUS will be working with the Colleges in the future to build upon its current advising tools.

RECRUITMENT SOFTWARE – GENERAL DESCRIPTION

SOFTWARE DELIVERY MODEL - The preferred approach as selected by the VEST is a fully hosted solution known as an ASP Model (Application Service Provider). This reduces Colleges' IT department involvement and places the burden on the vendor to set-up and support the system for the Colleges. AZORUS has an advanced data center with six (6) completely redundant Internet connections, back-ups and a very effective support system in place. However, this Contract includes the option of purchasing AZORUS Software Licenses and installing the software on College campuses. This is available at each College's option under the terms of this Contract.

IMPLEMENTATION - AZORUS has developed an implementation process designed to make setting up the system as easy as possible for the colleges. AZORUS support staff will be assigned to each institution at which point they will harvest data and other marketing collateral materials. The implementation process also includes AZORUS staff designing the email templates and portal for students. Implementation typically takes between 6 and 8 weeks. It is important to note that the AZORUS system can help reach a variety of audiences including High School Students, Transfer Students, Continuing Education Students and even International Students.

RECRUITMENT SOFTWARE CONTRACT INFORMATION

- PROJECT START DETAILS – for all Colleges who wish to participate, AZORUS is providing the ability to commence the project immediately and pay for it upon the new budget year commencing in July of 2006. Under this approach, AZORUS will be able to have new recruitment systems up and running by early summer before payment is required in July.

- CIS CONTRACT – There is no need for individual institutions to sign a software services contract with AZORUS. Participating Colleges will be bound to the terms and conditions of this CIS Optional Use Contract. The only paperwork required will be the Subscription Form attached to this Contract as Schedule C.

- SUBSCRIPTION FORM – The Subscription Form attached as Schedule C, provides AZORUS with the basic information needed to commence the Recruitment Software Project. In order to help facilitate the process, AZORUS will plan on contacting each of the Colleges directly to ensure that any questions or concerns are addressed prior to Colleges signing up to use this software solution. Please fill out the Subscription Form attached as Schedule C and email to AZORUS at info@azorus.com and a member of the AZORUS Customer Care team will contact you to establish the implementation process for your institution.

- HOSTED SERVICES PRICING - The pricing model that has been accepted by the VEST is an annual fixed fee and a one time set-up or implementation fee. Details are below:

Fixed Annual Fee	$15,000 USD
Implementation Fee	$ 6,500 USD (one time only)
Searchable Knowledge Base – Fixed Annual Fee	$ 6,000 USD

The fees negotiated ensure there are no additional costs for the Colleges. All upgrades and enhancements to current functionality are included at no additional cost. As AZORUS builds new modules to assist the colleges, these will be included in their future software releases at no additional cost.

- SOFTWARE PURCHASE PRICING – This option is available for Colleges who choose to own the Software, load it onto their own devices, and maintain the system themselves rather than subscribing to the Hosted Service method of using the Software.

    Volume Pricing for Software Licensing Agreement (SLA) Model:

    o ONE-TIME SLA Fee (1 to 10 schools): $30,000.; Remote Support Agreement 18% of SLA - Optional Recurring Annual Fee;

    o ONE-TIME FEE (11 to 20 schools): $25,000; Remote Support Agreement 18% of SLA - Optional Recurring Annual Fee;

    o ONE-TIME FEE (21+ schools): $20,000; Remote Support Agreement 18% of SLA - Optional Recurring Annual Fee;

    o EARLY ADOPTER PRICE INCENTIVE - First 5 schools receive a $10,000 discount off the SLA.

    o Implementation is estimated at $10k to $15k per institution. All upgrades and new modules are included at NO ADDITIONAL COST.

- TRAVEL EXPENSES – Travel not covered by training costs included in the initial implementation fees will be arranged by the College requiring an on site visit. The College will make and pay for reservations utilizing government rates for airfare, hotels, and car rental. Vendor's food expenses will be reimbursed by the College at the government per diem rate. Other miscellaneous travel expenses will be reimbursed with College approval.

STATEMENT OF WORK

All Products and Services presented in AZORUS' RFQQ response dated October 17, 2006 and AZORUS' response to supplemental questions dated November 1, 2005, both attached to this Contract as Exhibit B, are hereby incorporated into this Statement of Work. The following are highlights of Vendor responsibilities that may be included in Exhibit B, and may be in addition to Exhibit B.

- WEB UTILITY - The Hosted AZORUS Recruitment Management system is a completely web based solution. Both the public side (registration, student portal, etc.) and administrative side (recruitment manager, communications, event management, etc.) of the application are accessible from anywhere using a standard web browser. Standard internet protocols are used within the software, including HTTP, HTTPS, and SMTP.

   Students register for their portal using web based registration forms and once inside their portal all information and functionality is presented to the user via a series of personalized web pages. All inputs and data collected from the student are available within the administrative toolset to assist in targeting and further personalizing the information that is pushed to the student via their portal, or via email communication tracks. It is a paperless solution.

- FUNCTIONALITY HIGHLIGHTS – The AZORUS Recruitment Manager module provides:

   o Communication Tools - Centralized, multi-channel communication management system for any type of student. Lead prospects will be sent an email, using the AZORUS Recruitment Manager tools, inviting them to sign-up for their own personal portal page from which further emails will be customized to meet their needs. Inquiry prospects will be sent a verification email notifying them that they have been registered into the system and inviting them to check out their portal pages. Students who have signed-up for their portal page select their academic interests and areas of interest in order for our software to ensure that each student receives relevant communications that relate only to them. The Recruitment Manager module customizes communications on important information/and or events that are entered and filtered to reach the right student at the right time. These communications appear as emails; they also appear on the student's personal events page, and in the student's personal events calendar.

   o Communications Plans - The Recruitment Manager module provides for a communication plan via the tool called Email Tracks. This is a series of weekly (or desired frequency) email communications to inform prospective students on various topics to help students along on their journey toward finding the right college. Colleges can also design or ask to AZORUS to

design their own Email Tracks on any topics of their choosing to be sent out at various times that are also programmed in the Software. The Email Manager module is used to build a targeted campaign. For example, if one of the Colleges had purchased a list of names and email addresses from the Collegeboard (or other 3rd party data sources), the Software can target that list of prospects students by sending them an email invitation to sign-up for own personal portal page where they will receive any and all relevant information they require during their search for the right school. Colleges can target this list as much or as little as they want and can further target their potential recruits depending on the responses to these campaigns. This provides institutions the ability to understand what data sources are effective as we track the source of the student record. Another important consideration is that once the communications are built into the system, an administrator can simply monitor the associated activity. This 'set & forget' functionality allows an institution to put their entire recruitment plan into the system and decide when they want information to be sent to students.

o Customized End User Experience - The end-users identify their areas of interest and academic interests on their registration forms and that information equips the end-users with their own individual and highly personalized web portals. The portal pages provide the end-users with a list of links that correspond with their interests, as well as a detailed list of personal events complete with date, time, location, description, links and contact information. Any events that are of interest to the end-users will also appear in their personal calendar. No two portal pages are alike because each portal is customized to the specifications of each individual end-user.

o Event Scheduling - The Recruitment Management module provides a customizable event scheduler complete with automated communications and emails that are filtered to go to the relevant prospects, as well as the choice to implement RSVP features. RSVP features are incorporated into data entry screen views for communications. If the user would like the potential recruit to RSVP to an event, the user will check off that option and will designate RSVP details to be sent to whatever email address the user chooses. Once the prospect RSVP's, they will be given the option to unRSVP if need be, and that notification will also be sent to the designated email address. Other RSVP options include an option to send an email to those who have RSVP'd, to send a reminder email to those who have not RSVP'd, to send a additional emails to those who have received the event, and the option to send a Thank You email to those who attended the event. All aspects of event scheduling are automated further improving staff efficiencies.

o Retention - AZORUS provides an institution the ability to manage relationships throughout the lifecycle of the student allowing for improved communications and therefore the ability to provide accurate and timely information to students, regardless of their "state".

Furthermore, AZORUS has developed a Faculty Mentor Module which was designed to provide mentoring/advising capabilities to students who have applied. This tool may be modified to provide more advanced retention capabilities. AZORUS will work with the Collegesto enhance our current mentoring tool to meet the unique needs of the College market at no additional cost.

o ADA Compliance - AZORUS'S student portal conforms to Section 508 of the Rehabilitation Act, the Americans with Disabilities Act (ADA), and meets or exceeds Priority Level 1 of W3C's "Web Content Accessibility Guidelines 1.0", available at http://www.w3.org/TR/1999/WAI-WEBCONTENT-19990505. All student portal pages have been examined with numerous pieces of accessibility validation software available to us at AZORUS, and then manually checked for accessibility issues to make sure the tools we provide are accessible to all your students.

o Multiple Languages - The AZORUS Recruitment Management system currently supports multi-language capabilities on all registration forms built using the Forms Management module. The form field labels and prompts are multi-language ready. AZORUS is currently completing an update to our software to easily provide an administrative user with the ability to also publish all email and portal based content in multiple languages including Spanish.

o Reports - The Reports module is comprised of a series of user-friendly reports that allow users to understand what is happening with the system and to view custom management reports. The reports management functionality provides the Report Card view; a quick glance at key measurement metrics as well as a library of more detailed reports. The report library has a customized group of Microsoft Excel reports. By clicking the report name a person can open the report, use a simple interface to get validated, select criteria needed to run the report and then view the data. These reports can also be saved to local computers so they may be accessed in the future. Report data is exported to a common spreadsheet application (Microsoft Excel) that allows for other management capabilities including mail merges for paper based mailing campaigns. The Report data can also be moved from Excel spreadsheet to PDF format.

o Data Importing - The AZORUS Recruitment Management system supports a wide variety of data importing capabilities, including taking data feeds from NRCCUA, College Board, ACT etc. directly into our Search List (prospective student leads) module. AZORUS support is also available for any manual data imports that are not automatically handled within the system. If an institution has a current list of students, as part of implementation, AZORUS will import this data into our system as a data migration project. Beyond data

importing, AZORUS has also integrated our application with various SIS systems, including SCT Banner, Jenzabar, and is currently porting the integration module to include Peoplesoft. DataTel is slated to be included in the next 2 quarters. This SIS Integration module offers near real time data element sharing and exchange.

o Training - Training costs will be included in the initial Software and Hosted Services fees listed in this Schedule A and will include a thorough review of all modules that will be provided to each individual institution. This can be accomplished in two ways depending on the requirements of the institution. AZORUS can provide individualized one-on-one or group sessions via conferencing using the web. Alternatively AZORUS is able to schedule face to face on-site training.

o Implementation - AZORUS provides comprehensive support to assist during the implementation phase as well as post launch. During the implementation phase AZORUS provides detailed requirements and associated timelines to ensure the delivery of the software meets the agreed upon deadlines. AZORUS has created an electronic collaboration tool designed to facilitate the implementation of the software. Our AZORUS collaboration tool provides our clients with an online support and project management tracking system which provides the client the ability to view the status of their project implementation as it progresses. The cost of AZORUS implementation is included in the initial Software and Hosted Service fees listed in this Schedule A.

In the ASP model, AZORUS hosts the application and database within AZORUS'S hosting facilities, on AZORUS hardware, and provides full support and maintenance of the server hardware, server software, and databases. There is no time required by college IT staff for installation.

The SLA model differs in that the application and databases are installed on one or more servers at the end customer's location. AZORUS provides support and maintenance, but the server hardware, server software, databases, and required bandwidth costs are the end customer's responsibility. The Colleges' IT staff will be responsible for ordering the servers, and installing the server software and networking components. AZORUS provides tightly coupled assistance with this, and will install our software on the servers once they are in place. The amount of internal time will vary by institution from a few person days to a week or possibly more. In the event that the internal skills are either not available or don't exist, AZORUS provides an institution with the option of shipping the servers to our main office where our technical people will install and test the system and then return ship the hardware back to the institution. Under this approach, there are no additional costs from AZORUS to the institution other than the direct expenses associated with shipping.

o Documentation - The documentation that is provided to Colleges begins with the setup guide and a timeline for the entire project. These documents are provided prior to the first "kick-off" meeting and then are viewed in detail as the project progresses. Once the implementation is complete, all manuals for applicable modules to be managed by the College are provided prior to training. In addition to the formal implementation schedule and related support documentation, AZORUS augment this with an on-line collaboration tool designed to effectively track and monitor the progress of the project by school.

o Future Integration - The AZORUS Recruitment Management system supports the following database platforms for customer implementations: MySQL, Oracle and Microsoft SQL. The SIS Integration module currently used for ERP systems such as SCT Banner, Jenzabar, and Peoplesoft also support these databases. MS SQL Server supports the triggers used as part of integration. In general, a common set of fields is identified within both the AZORUS Recruitment Management system and the SIS system. Triggers are built on each of these fields, in both systems, such that if they are modified by a record update in either system, the update is also passed to the other system via an exchange table process, and user record mapping. If a College selects the SIS Integration module, there will be some IT staff involvement required for creating the necessary triggers and exchange tables within the SIS database, as well as testing the SIS integration process.

o Support/Updates/Upgrades – AZORUS provides a NO COST UPGRADE GUARANTEE for all its clients while under an active support agreement. Any improvements to current software as well as any minor or major upgrades of the software are provided at NO COST to the institution. Releases of updates, new versions, etc. occur typically once a quarter. These updates are usually installed and configured by AZORUS directly, unless we do not have direct access to the web and database servers housing the application. In these cases, college staff will need to be involved, and the time required will depend on the nature of the update being applied. Most implementations provide for the ability for select AZORUS staff to access the server to conduct the updates. It is important to note that all updates are scheduled with the client and will not be performed without agreement on timing. AZORUS does not conduct unilateral updates.

Furthermore, as AZORUS develops completely new "out of the box" functionality to assist its clients, these new functional modules will be provided to AZORUS clients at NO COST. The only costs that may be incurred would be for direct travel costs associated with a client requested on-campus training or customization. All training and support for new upgrades are included and training will be provided via our webinar training sessions. Should on-site training be preferred, AZORUS is able to conduct multi-

session training at a designated central location(s) as determined by the State of Washington.
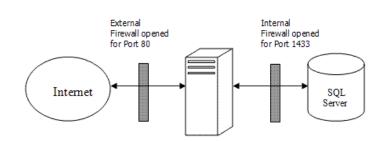
- TECHNICAL SPECIFICATIONS

  o Operating System - The AZORUS Recruitment Management system can be completely installed and configured on a one or two server setup. While the target web server platform is Apache running on Red Hat Linux, AZORUS supports nearly any server based operating system that can run Apache and PHP. AZORUS also supports Microsoft IIS as a web application server, provided PHP is installed.

  o Database - On the database server AZORUS supports the following databases:MySQL, Oracle and MS SQL. Any operating system that supports any of these databases can be installed on the database server. Each College participant maintains ownership of their data. Databases will be transferred to College participants when requested without charge.

  o Code - The AZORUS Recruitment Management system is web based proprietary software application built using open source technologies and open standards, following the traditional LAMP (Linux, Apache, MySQL, Perl/PHP/Python) model for web application development. Our software was developed using the PHP programming language. It is very flexible in terms of the database and application server software it can support.

- DATA SECURITY - ASORUS agrees to maintain the following data security requirements:

  o AZORUS agrees to maintain FERPA compliance (see http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html). FERPA allows for parents or eligible students (those of 18 years of age, or having transferred to a post secondary institution) to view student records maintained by an institution. The AZORUS Recruitment Management system is a secure, password protected system that by default prevents unauthorized access to a student's information.

  o Data Access - The AZORUS Recruitment Management system provides a password protected web portal for the prospective student users. Via the web portal, prospective students only have access to their own data. The administrative toolset also requires password authentication, and provides a User Management module to enforce user security levels within the administration section of the system based on defined user groups and roles. This module is used to control administrative user access to all modules within the AZORUS system.

o Internet Connectivity - AZORUS has a co-location hosting agreement for our production customer servers with LandlordIT, a dedicated high end service provider. LandlordIT is directly connected to every Internet backbone in Canada that in turn is connected through multiple connections to the USA, Europe, and Asia etc. The entire Canadian Internet must fail before LandlordIT will lose baseline connectivity. These BGP managed multiple connections ensure the most direct packet routing and low-latency exchange between North American and worldwide networks. When a server has to always be up and connected, LandlordIT provides the best co-location environment. Direct fiber to all Canadian Internet backbones provides unparalleled, multi-homed connectivity. LandlordIT provides services to a wide range of companies including Financial Services, IT Services, Oil and Gas, Legal etc. These include international companies who are serving Fortune 500 global customers 24/7 for whom dedicated connectivity to the worldwide Internet is mission critical.

o Encryption - Passwords, as well as any other data transmitted within the AZORUS system are encrypted by the use of an external Secure Socket Layer (128 Bit SSL) certificate, an industry standard means of encrypting website traffic.

o Firewalls - AZORUS maintains and manages its own DNS servers, firewalls, and other network infrastructure components at our co-location hosting facility, where we are connected directly to six internet bandwidth pipes. We have not been required to deal with load balancing software in our ASP model. We would approach this necessity via the use of additional dedicated servers (for specific customers, if required), and potentially with the use of load balancing software.

The configuration below is a standard implementation offering the greatest security and is deemed as a common best practice, and is employed within our ASP hosting model.

Option 2   *Web Server with Azorus Application and Database Server*

o Disclosure of Security Breach - Pursuant to RCW 19.255.010, Disclosure, notice – Definitions – Rights, remedies, AZORUS agrees that, in the event of

any breach in data security where personal information of a College's client was, or is reasonably believed to have been, acquired by an unauthorized person, AZORUS will promptly notify CIS of the security breach and assist CIS with the notification action required under the law.

- o Data Elements – Collection of data will be limited to the following elements: name, email address, academic and non-academic interests. If any other information is to be collected, AZORUS agrees to revisit security issues appropriate to the level of data being collected with CIS. Under no circumstances shall AZORUS collect any other personal information without the express written approval of CIS.

- PHYSICAL SECURITY - AZORUS agrees to maintain the following physical security requirements at the Hosting Facility:

- o Hosting Facility - AZORUS contracts with LandlordIT for its Hosting Facility. LandlordIT is located on the 2nd floor of Tower 1 of the Purdy's Wharf business complex, located in the downtown core of Halifax's business district. The complex does not reside within an earthquake, hurricane, or flood zone.

- o Backup – The Hosting facility is fully redundant with both utility and diesel generator power. The generator has a 10,000 lt. oil tank ensuring constant operation through multi week outages.

- o Environment – The Hosting facility uses dual HVAC systems plus dual sources of chilled water to supply the HVAC systems. The facility is protected with an inert gas fire suppression system. Environmental, connectivity, power and facility metrics are actively monitored and measured to maintain the operational parameters.

- o Physical Access to Hosting Facility – The facility maintains a security system cameras record of all entries and exits and only escorted access is permitted. There is security controlled access with a vestibule between the public area and the Facility room. Each door has its own access code administration and entry is only permitted if accompanied by LandlordIT staff.

- o Facility Monitoring - Environmental, Internet connectivity, power, and facility metrics are all actively monitored and measured with alarms via pager, SMS and e-mail to "24/7 on call" staff if operational parameters are breached.

- o Facility Status – AZORUS will communicate any changes in the status of the Hosting facility to the CIS Contract Administrator.

- o Relocation – AZORUS will notify CIS in the event AZORUS plans to discontinue using LandlordIT as their hosting facility. Such notification shall

be sent to CIS at least 30 days prior to moving data or servers to the new location.

If there are any questions regarding this project please contact the following:

VEST Committee Chair: Mr. Jack Huls
                           Vice President of Student Services
                           Peninsula College
                           Email: JackH@pcadmin.ctc.edu
                           Phone: 360-417-6225

CIS Procurement Manager: Deb Poarch
                           Center for Information Services
                           Email: dpoarch@cis.ctc.edu
                           Phone: 425-803-9783

AZORUS Inc.   Stephen MacDonald
                           CEO
                           AZORUS Inc.
                           Email: smacdonald@AZORUS.com
                           Phone: 902-446-4501

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

Schedule B
Authorized Purchasers and Subscribers
Center for Information Services
Member Institutions
and
Four Year Public Higher Education Institutions

College	Address	City, State Zip
Bates Technical College	1101 S Yakima Avenue	Tacoma WA 98405
Bellevue Community College	3000 Landerholm Circle SE	Auburn WA 98007
Bellingham Technical College	3028 Lindbergh Avenue	Bellingham WA 98225
Big Bend Community College	7662 Chanute Street	Moses Lake WA 98837
Cascadia Community College	19017 120th Avenue NE, Suite 102	Bothell WA 98011
Centralia College	600 W Locust Street	Centralia WA 98531
Clark College	1800 E McLoughlin	Vancouver WA 98663
Clover Park Technical College	4500 Steilacoom Boulevard SW	Tacoma WA 98499
Columbia Basin College	2600 N 20th	Pasco WA 99301
Center for Information Technology	3101 Northup Way, Suite 100	Auburn WA 98004
Edmonds Community College	20000 68th Avenue W	Lynnwood WA 98036
Everett Community College	2000 Tower Street	Everett WA 98201
Grays Harbor College	1620 Edward P. Smith Drive	Aberdeen WA 98520
Green River College	12401 SE 320th Street	Auburn WA 98092
Highline Community College	PO Box 98000	Des Moines WA 98198
Lake Washington Technical College	11605 132nd Avenue NE	Kirkland WA 98034
Lower Columbia College	PO Box 3010	Longview WA 98632
North Seattle Community College	9600 College Way N	Seattle WA 98103
Olympic College	1600 Chester Avenue	Bremerton WA 98337
Peninsula College	1502 E Lauridsen Boulevard	Port Angeles WA 98362
Pierce College District	9401 Farwest Drive SW	Lakewood WA 98498
Renton Technical College	3000 NE 4th Street	Renton WA 98056
Seattle Central Community College	1701 Broadway	Seattle WA 98122
Seattle District	1500 Harvard Road	Seattle WA 98122
Shoreline Community College	16101 Greenwood N	Shoreline WA 98133
Skagit Valley College	2405 E College Way	Mount Vernon WA 98273
South Puget Sound Community College	2011 Mottman Road SW	Olympia WA 98512
South Seattle Community College	6000 16th Avenue SW	Seattle WA 98106
Spokane Community College	1810 N Greene Street	Spokane WA 99217
Spokane District	2000 N Greene Street	Spokane WA 99217
Spokane Falls Community College	W 3410 Fort George Wright Drive	Spokane WA 99224
State Board for Community & Technical Colleges	319 7th Avenue	Olympia WA 98504
Tacoma Community College	6501 S 19th Street	Tacoma WA 98466
Walla Walla Community College	500 Tausick Way	Walla Walla WA 99362
Wenatchee Valley College	1300 Fifth Street	Wenatchee WA 98801
Whatcom Community College	237 W Kellogg Road	Bellingham WA 98226
Yakima Valley College	PO Box 22520	Yakima WA 98907
Central Washington University	400 East 8th Avenue	Ellensburg WA 98926
Eastern Washington University	526 5th Street	Cheney WA 99004
The Evergreen State College	2700 Evergreen Parkway NW	Olympia WA 98505
University of Washington	4014 University Way NE	Seattle WA 98105
Washington State University	1 SE Stadium Way	Pullman WA 99164
Western Washington University	516 High Street	Bellingham WA 98225
Institute for Extended Learning	3305 W Fort George Wright Drive	Spokane WA 99224
Seattle Vocational Institute	2120 South Jackson Street	Seattle WA 98144

Schedule C

AZORUS RECRUITMENT SOFTWARE HOSTED SERVICES

SUBSCRIPTION FORM

Date: _____

Name of College: _____

College Address: _____

City and Zip: _____

College Website: _____

The Prime Contact below represents that they have the authority to bind their College to the CIS Optional Use Contract #060327 (see http://www.cis.ctc.edu/pub/contracts/software.htm#azorus) and to payment for the desired products checked below.

❑ ASP Annual Fee - $15,000 USD (Includes all software maintenance)

❑ Implementation Fee - $ 6,500 USD (one time only – includes training)

❑ Optional Searchable Knowledge Base
Annual Fee - $ 6,000 USD

Prime Contact Name:_____

Prime Contact Phone:_____ Prime Contact Email:_____

Billing Contact Name:_____

Billing Contact Phone:_____ Billing Contact Email: _____

Intended Start Date:_____

Intended "Go Live" Date: _____

Schedule D

Software Escrow Agreement

THIS ESCROW AGREEMENT dated the_____day of_____20__.

BETWEEN:

> **AZORUS INCORPORATED**, a body corporate
> (Hereinafter referred to as the Depositor)

> - And -

> _____
> (Hereinafter referred to as the Beneficiary)

WHEREAS the Depositor is the owner, developer, creator, or originator of certain proprietary technology, data, documents, or other intellectual property (Deposit Materials) as defined in Schedule A to this Agreement;

AND WHEREAS the Depositor and Beneficiary(ies) (hereinafter referred to in the singular Beneficiary) have executed or intend to execute a contract or license agreement (License Agreement) regarding the Beneficiary's use or deployment of the Deposit Materials;

AND WHEREAS the Depositor intends to maintain its confidentiality and security regarding the Deposit Materials, except for specific circumstances (Release Conditions) that may be defined in Section 3;

AND WHEREAS the Beneficiary wishes to ensure its accessibility to a copy of the Deposit Materials in the event that a Release Condition occurs;

AND WHEREAS the Depositor wishes to place the Deposit Materials into escrow with Morris Bureau to maintain the confidentiality, security, and accessibility of the Deposit Materials;

NOW THEREFORE in consideration of the mutual covenants, the sum of Ten Dollars ($ 10.00) on other good and valuable consideration the receipt of which is acknowledged, the parties agree as follows:

SECTION 1: DEPOSITS

i) <u>Initial Deposit</u>

Depositor shall deliver Deposit Materials to Morris Bureau within 10 days of the execution of this Agreement. Deposit Materials shall be delivered to Morris Bureau at Suite 307, 6080 Young Street, Halifax, Nova Scotia, B3K 5L2.

j) <u>Vault & Deposit Location</u>

Morris Bureau shall maintain at its own expense one or more secured storage areas for the storage of all Deposit Materials subject to this Agreement. All Deposit Materials will be delivered in a sealed package to Morris Bureau authorized agent (Section 1.1) who shall, subject to terms of this Agreement, deposit the materials in the secured storage area.

k) <u>Labeling</u>

Prior to delivery, the Depositor shall label each item to be deposited and list the items and descriptions in detail by completing Schedule B.

l) <u>Receipt and Notification</u>

Upon receipt of Deposit Materials, Morris Bureau shall visually inspect the Deposit Materials and compare them with the descriptions listed on Schedule B. If the Deposit Materials match the descriptions listed on Schedule B, Morris Bureau will sign and date the Schedule B and return a copy to the Depositor and Beneficiary, notifying the parties of its acceptance of the Deposit Materials. If the Deposit Materials do not match the descriptions listed on Schedule B, Morris Bureau will return the Deposit Materials and Schedule B to the Depositor, notifying the both the Depositor and the Beneficiary of the discrepancy. Morris Bureau shall have no obligation to this Agreement unless and until it receives and accepts the Deposit Materials. Morris Bureau provides no warranty or representation as to the contents of the Deposit Materials other than as represented by the Depositor to Morris Bureau.

m) <u>Depositor's Representations</u>

Depositor represents as follows:

1) Depositor lawfully possesses all right and interest in and to the Deposit Materials;

2) with respect to the Deposit Materials, Depositor has the right and authority to grant to Morris Bureau the rights as provided in this Agreement;

3) the Deposit Materials are not subject to any lien or encumbrance;

4) the Deposit Materials placed in escrow shall be maintained and updated in their most current form and in complete and working order; and

5) the Deposit Materials are readable and useable in their deposited form or if encrypted, the decryption tools have been submitted to Morris Bureau.

n) <u>Updates</u>

The Depositor shall update the Deposit Materials within 10 days of a new release or as may be prudent or necessary or otherwise directed by the parties contract or license agreement. The Depositor shall perform and complete all updates in accordance with Sections 1.2 through 1.4. All references to the Deposit Materials shall include the initial deposit and all updates. The Depositor shall pay deposit update fees at the time of the update.

1.7 <u>Removal</u>

Deposit Materials may be removed and/or exchanged only upon written instruction from the Depositor and Beneficiary or as otherwise provided in this Agreement.

1.8 <u>Right to Duplicate</u>

Morris Bureau may duplicate or reproduce the Deposit Materials as necessary to perform this Agreement. Morris Bureau shall transfer all proprietary notices of the Depositor in any duplication or reproduction.

1.9 Testing and Verification

At Beneficiary's request and expense, Morris Bureau may provide various levels of independent testing or verification of the Deposit Materials, per the Beneficiary's written requirement or instruction. Any bid for testing or verification shall be approved by Beneficiary in writing and paid in advance. Upon completion, reports of the testing or verification will be issued to the parties.

1.10   No Hazardous Materials

The Depositor covenants that the Deposit Materials and updates shall contain no hazardous or dangerous materials.

1.11   Title

The Depositor transfers all right, title, and interest to Morris Bureau in the physical media (e.g. paper, diskettes, etc.) on which the Deposit Materials and updates are fixed, subject to the terms of this Agreement.

SECTION 2: SECURITY AND CONFIDENTIALITY

2.1   Security

Morris Bureau shall maintain the Deposit Materials in a secure Fire Proof Storage Safe that is accessible only to its officers, employees, or authorized agents or representatives.

2.2   Confidentiality

Morris Bureau shall reasonably protect the confidentiality of the Deposit Materials. Morris Bureau shall not disclose the content of this Agreement to any third party and shall, where possible, not disclose, transfer, make available or use the Deposit Materials. Morris Bureau shall notify the parties if it receives a subpoena or court order regarding the disclosure or release of the Deposit Materials. The Depositor shall be responsible to challenge any such order. Morris Bureau shall not waive its rights to present its position with respect to any such order, nor shall Morris Bureau be required to disobey any subpoena or other court order.

2.3   Reports

The Depositor will issue semi-annual status reports to the Beneficiary and to Morris Bureau and also notify the parties in writing of any updates to the Deposit Materials.

SECTION 3: RELEASE CONDITIONS

3.1   Ordered Release

Upon Morris Bureau's receipt of written instruction from Depositor, Depositor's receiver or trustee in bankruptcy, or a court of competent jurisdiction, Morris Bureau will release a copy of the Deposit Materials to Beneficiary as directed in the written instruction.

3.2   Release Request

If Beneficiary believes in good faith that a Release Condition has occurred, Beneficiary may provide to Morris Bureau's written notice of the occurrence and its request for the release of the

Deposit Materials by registered mail, return receipt requested. Upon receipt, Morris Bureau shall forward a copy of the Release Request to the Depositor by registered mail, return receipt requested. Release Request must include Beneficiary's specific delivery instructions and non-refundable payment of $200 Canadian Dollars, the Deposit Release Fee.

3.3   Contrary Instructions

The Depositor shall have ten (10) days from the date it receives from Morris Bureau the copy of the Release Request to reply with Contrary Instructions, stating that the Release Condition has not occurred or has been resolved. Contrary instructions shall be delivered to Morris Bureau via registered mail, return receipt requested. Morris Bureau shall forward a copy of the Contrary Instructions to Beneficiary via fax or first class mail, and notify the parties that there is a dispute to be resolved pursuant to Section 4. Morris Bureau shall retain the Deposit Materials pending a) joint written instructions from the Depositor and Beneficiary to release the Deposit Materials; b) alternative dispute resolution pursuant to Section 4; or c) written order from a court of competent jurisdiction.

3.4   Deposit Release

If Morris Bureau does not receive Contrary Instructions from the Depositor in accordance with Section 3.4, Morris Bureau shall release a copy of the Deposit Materials to the Beneficiary per its Release Request. This Agreement will terminate upon all of the release of the Deposit Materials to Beneficiary.

SECTION 4: INDEMNIFICATION AND DISPUTE RESOLUTION

Refer to the terms and conditions of the main Contract #060327.

SECTION 5: FEES AND PAYMENT TERMS

5.1   Fee Payment

The Depositor shall be solely responsible for any and all fees charged by Morris Bureau for administering this Agreement.

SECTION 6: TERM AND TERMINATION

6.1   Initial Term and Automatic Renewal

The initial term of this Agreement is one (1) year. This Agreement shall automatically renew annually unless a) the Depositor terminates the Agreement in writing at least 30 days' notice; b) Morris Bureau terminates the Agreement for non-payment; c) Morris Bureau resigns its role as escrow agent in accordance with Section 6.3.

6.2   Termination for Non-Payment

If any payment for services is not received in full by Morris Bureau within 60 days of the invoice date, Morris Bureau may terminate this Agreement at any time thereafter by sending written notice of delinquency to the parties. Either party may submit payment to Morris Bureau to resolve such delinquency. Morris Bureau shall have no obligation under this Agreement as long as the escrow account is delinquent.

6.3   Resignation

Morris Bureau may resign and thus terminate this Agreement at any time by giving the parties at least 30 days= notice of its intended resignation. Upon resignation, Morris Bureau shall return, destroy, or otherwise dispose of the Deposit Materials per the Depositor's and Beneficiary's joint written instructions.

6.4   Surviving Terms

The following shall survive upon termination of this Agreement: a) the Depositor's representations per Section 1.4; b) Morris Bureau's obligation of confidentiality with respect to the Deposit Materials; c) responsible party's obligation to pay Morris Bureau any fees or expenses due; d) the provisions of Section 8; and e) any provisions in this Agreement which specifically state they survive the termination or expiration of this Agreement.

6.5   Return of Deposit Materials

Morris Bureau shall return, destroy, or otherwise dispose of the Deposit Materials upon termination, per the Depositor's written instruction.

SECTION 7: ENROLLMENT OF MULTIPLE BENEFICIAIRES

7.1   Enrollment Procedures

Morris Bureau may concurrently or subsequently enroll for a fee any number of the Depositor's licensees, clients, or other designated parties as Beneficiaries to this Agreement. The Depositor must complete a copy of Schedule C either in paper form or via online submission to Morris Bureau for each Beneficiary and submit its accompanying payment of Morris Bureau Beneficiary Enrollment Fee. Morris Bureau will issue an initial notification letter and subsequent status and update reports to each Beneficiary enrolled to this Agreement.

7.2   Enrollment Term

Each Beneficiary shall be enrolled for one (1) year from the date of the Depositor's Schedule C. Each Beneficiary's enrollment shall automatically renew annually unless the Depositor terminates the Beneficiary in writing with at least 60 days notice or this Agreement is otherwise terminated in accordance with Section 7.

SECTION 8: GENERAL PROVISIONS

8.1   Entire Agreement

This Agreement and its Schedules embody the entire understanding among the parties with respect to its subject matter and supersedes all previous oral or written communications, representations, or understandings. No modification to this Agreement shall be valid or binding unless signed by the parties.

8.2   Correspondence

All correspondence, including notices, invoices, payments, or other deliveries shall be delivered to the parties at their respective addresses designated on Schedule "D". The parties shall be responsible to notify each other in the event of any change in their designated contact information. The parties shall have the right to rely on the last known address of the other parties. Unless otherwise provided in this Agreement, all documents and communications may be delivered by first class mail.

8.3   Other Third Parties

Morris Bureau shall have no obligation to any other third party, except the parties designated in this Agreement. The parties shall have the right to collectively modify or cancel this Agreement upon their mutual, written consent.

8.4   Severability

In the event any provision of this Agreement is found to be invalid, voidable, or unenforceable, the parties agree that unless it materially affects the entire intent and purpose of this Agreement, such invalidity, voidability, or unenforceability shall affect neither the validity of this Agreement nor the remaining provisions herein, and the provision in question shall be deemed to be replaced with a valid and enforceable provision most closely reflecting the intent and purpose of the original provision.

8.5   Successors

This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties. Morris Bureau shall have no obligation in performing this Agreement to recognize any successor or assign of the Depositor unless Morris Bureau receives authoritative and conclusive written evidence of the change of parties.

8.6   Regulations

The Depositor is responsible for and warrants compliance with all applicable laws, rules, and regulations, including but not limited to customs laws, import, export, and re-export laws and government regulations of any country from or to which the Deposit Materials may be delivered in accordance with this Agreement.

8.7   English Language and Translations

This Agreement is effective and enforceable as it is written in the English language. All interpretations of this Agreement, including any alternative dispute resolution or judicial interpretations shall be made in the English language, regardless of the jurisdiction or the parties' respective countries of origin. This Agreement may be translated to other languages for working use only and at the expense of the party requesting the translation.

SECTION 9: ADDITIONAL TERMS

12.   Additional Terms

Any additional terms negotiated among and agree upon by the parties are described in Schedule E, which may be incorporated into this Agreement or removed or left blank if not used.

These terms agree upon by all parties and effective_____, 20__.

                                                        AZORUS INCORPORATED:

                                Per: _____
                                        Stephen MacDonald   **Date**

MORRIS BUREAU Barristers & Solicitors:

Per: _____

Richard A. Bureau   **Date**

Schedule "A"

Deposit Materials

Schedule "B"

Detailed Description of Deposit Materials

Schedule "C"

Enrollment of Multiple Beneficiaries

Schedule "D"

Designated Contact Details

Depositor:

AZORUS INC.

Mr. Bruce Roberts - Vice President Operations

400-1820 Hollis Street

Halifax, NS, Canada B3J 1W4

Telephone: 902.446.4500

DIRECT: 902.446.4502

Facsimile: 902.446.4510

Email: broberts@AZORUS.com

BENEFICIARY:

_____

BARRISTERS & SOLICITORS:

Mr. Richard Bureau - Partner

MORRIS BUREAU

6080 Young Street, Suite 307

Halifax, NS, Canada B3K 5L2

TELEPHONE: 902.454.8070

Facsimile: 902.454.7070

Email: richardbureau@morrisbureau.ns.ca

Schedule "E"

Additional Terms