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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

# Memorandum

MIAMI-DADE COUNTY

**Date:** September 3, 2014

**To:** Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez
Mayor

Agenda Item No. 8(F)(5)

Resolution No. R-752-14

**Subject:** Recommendation for Approval to Award a Legacy Purchase: Proliance Systems Software, Licenses, Software Maintenance, and Technical Support Services

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**Recommendation**

It is recommended that the Board of County Commissioners (Board) approve award of a legacy contract, *L9382-1/19 Proliance System Software*, to Meridian Project Systems, Inc. to purchase required licenses, software maintenance and technical support services for the Water and Sewer Department (WASD).

WASD uses Proliance System Software (Proliance) to track over 1,000 active capital projects and is part of a multi-enterprise level software solution that is used to meet many of WASD's operational business needs on a daily basis. More specifically, this software is the system of record for departmental projects, and meets the criteria and interfaces established with the Oracle PeopleSoft Enterprise Resource Planning System Financials and the Graphical Information System modules. Due to the recent Consent Decree, WASD anticipates an increase in capital projects and utilization of the Proliance software will provide the needed support to manage each project efficiently.

Previously, Meridian Project Systems Inc. authorized resellers to sell and maintain its products. Since 2013, resellers are no longer authorized to sell, distribute, or maintain the software products. Meridian Project Systems, Inc. is the proprietary owner and developer of the Proliance Systems and the sole provider of required software license, maintenance, and technical support services. WASD procured the Proliance Systems competitively in 2007 to obtain the functionality required to track and manage all capital projects within the department. This legacy contract will provide WASD with continuity of services and allow for the purchase of ongoing licenses and maintenance support services. Ongoing maintenance and technical support services are vital to maintaining Proliance as a viable tool for WASD, as well as ensures compliance with the existing software license agreement.

**Scope**

The impact of this item is not countywide in nature.

**Fiscal Impact/Funding Source**

The fiscal impact for this contract for the initial three-year term is $625,000. If the County exercises the single, two-year option to renew, the cumulative value will be $994,000 for a total of five years. The previous contract was solicited and competitively awarded to Carahsoft Technology Corp, a Meridian authorized reseller, for 42 months and valued at $977,000. Aside from the recommended contract costing over 25 percent less than the current contract, the long term replacement contract has been negotiated to provide WASD with a fixed fee schedule for all required licenses, software maintenance, and technical support fees throughout the initial contract term, as well as all available options to renew. Negotiations yielded saving of $67,064 off the vendor's price offer to the County.

| Department | Allocation | Funding Source | Contract Manager |
|---|---|---|---|
| Water and Sewer | $625,000 | Proprietary Funds | Gregory Govia |

**Track Record/Monitor**

Josh Brown of the Internal Services Department is the Procurement Contracting Officer.

**Delegated Authority**

If this item is approved, the County Mayor or County Mayor's designee will have the authority to exercise, at their discretion, contract modifications, subsequent options-to-renew and extensions in accordance with the terms and conditions of the contract.

**Vendor Recommended for Award**

| Awardee | Address | Principal |
|---|---|---|
| Meridian Project Systems, Inc. | 1720 Prairie City Road, Suite 120, Folsom, CA | Kathryn Radley-Timberlake, |

**Due Diligence**

Due diligence was conducted in accordance with the Internal Services Department's Procurement Guidelines to determine Contractor responsibility, including verifying corporate status and that there are no performance or compliance issues. The lists that were referenced include: convicted vendors, debarred vendors, delinquent contractors, suspended vendors, and federal excluded parties. There were no adverse findings relating to Contractor responsibility. This information is being provided pursuant to Resolution R-187-12.

**Applicable Ordinances and Contract Measures**

- The two percent User Access Program provision applies and will be collected on all purchases.
- The Small Business Enterprise Bid Preference and Local Preference do not apply.
- The Living Wage Ordinance does not apply.

**Background**

Proliance maintains a shared central repository of major capital initiatives that provides project status, project process workflow, and comprehensive documentation regarding project progress. Proliance addresses several WASD objectives within the department's business plan including, but not limited to, continued water and wastewater capital plan implementation, improve accountability, and improved technology functionality.

Alina Hudak
Deputy Mayor

# MEMORANDUM

**(Revised)**

**TO:** Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

**DATE:** September 3, 2014

**FROM:** R. A. Cuevas, Jr.
County Attorney

**SUBJECT:** Agenda Item No. 8(F)(5)

**Please note any items checked.**

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____ ) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(5)
9-3-14

RESOLUTION NO. R-752-14

RESOLUTION AUTHORIZING AWARD OF LEGACY CONTRACT L9382-1/19, PROLIANCE SYSTEMS SOFTWARE TO MERIDIAN PROJECT SYSTEMS, INC. TO PROVIDE REQUIRED SOFTWARE LICENSES, SOFTWARE MAINTENANCE, AND TECHNICAL SUPPORT SERVICES IN THE AGGREGATE AMOUNT OF $994,000.00, AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AN AGREEMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ANY CANCELLATION AND RENEWAL PROVISIONS, AND TO EXERCISE ALL OTHER RIGHTS CONTAINED THEREIN

**WHEREAS**, the County Mayor recommends to this Board to authorize Legacy Purchases for goods and services,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,** that:

**Section 1.** This Board authorizes Legacy Purchases pursuant to Section 2-8.1(b)(2) of the County Code by a majority vote of the members present.

**Section 2.** This Board execution of an agreement in the aggregate amount of $994,000.00 with Proliance System Software, Inc., in substantially the form attached hereto and made a part hereof, for required software licenses, software maintenance and technical support services for the Miami-Dade Water and Sewer Department.

**Section 3.** This Board authorizes the County Mayor or County Mayor's designee to execute contract for the item approved herein and exercise contract modifications, options-to-renew, any cancellation provisions, and any other rights contained therein in accordance with the terms and conditions of such contracts.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Lynda Bell** and upon being put to a vote, the vote was as follows:

| | | | |
|---|---|---|---|
| Rebeca Sosa, Chairwoman | | | **aye** |
| Lynda Bell, Vice Chair | | | **aye** |
| Bruno A. Barreiro | **absent** | Esteban L. Bovo, Jr. | **aye** |
| Jose "Pepe" Diaz | **absent** | Audrey M. Edmonson | **aye** |
| Sally A. Heyman | **aye** | Barbara J. Jordan | **aye** |
| Jean Monestime | **aye** | Dennis C. Moss | **aye** |
| Sen. Javier D. Souto | **aye** | Xavier L. Suarez | **absent** |
| Juan C. Zapata | **aye** | | |

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of September, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: ***Christopher Agrippa***
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Daniel Frastai

# PROLIANCE SOFTWARE LICENSE, MAINTENANCE, AND SUPPORT SERVICES AGREEMENT

THIS SOFTWARE LICENSE, MAINTENANCE, AND SUPPORT SERVICES AGREEMENT ("AGREEMENT") IS MADE AND ENTERED INTO BY AND BETWEEN MIAMI-DADE COUNTY , A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, HAVING ITS PRINCIPAL OFFICE AT 111 N.W. 1ST STREET, MIAMI, FLORIDA 33128 (HEREINAFTER REFERRED TO AS THE "COUNTY"), AND MERIDIAN PROJECT SYSTEMS, INC. , A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF CALIFORNIA, DOING BUSINESS AS MERIDIAN SYSTEMS, HAVING ITS PRINCIPAL OFFICE AT 1720 PRAIRIE CITY ROAD, SUITE 120, FOLSOM, CA 95630 (HEREINAFTER REFERRED TO AS THE "LICENSOR").

## RECITALS

A. County has acquired rights of use for the Proliance Software and associated Documentation (as defined below).

B. Licensor desires to grant to the County and the County desires to obtain from the Licensor a(n) nonexclusive license to use the Proliance Software and associated Documentation in accordance with the terms and on the conditions set forth in this Agreement.

C. Licensor shall provide the required support services for the Software licensed by the County on the conditions set forth in this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

## ARTICLE 1. DEFINITIONS

1.1 "Documentation" shall mean all product brochures, product instruction manuals, product and technical reference manuals and guides, release notes, set up and operation guides, software installation and reference material, help me files imbedded into the Software, maintenance and servicing instructions, user documentation, and other related materials pertaining to the Software which are furnished by the Licensor to the County in connection with the use of the licensed Software.

1.2 "License Fee" shall mean the fee associated to granting the County use of the Software. The annual fees associated with Licensor providing a Software Subscription and Maintenance ("SSM") support service is outlined in Appendix B "Price Schedule".

1.3 "Software" shall mean all Meridian Project Systems, Inc. doing business as Meridian Systems ("Meridian®) and third party ("Supplier") software provided with this license, and includes any accompanying documents ("Documentation"). The term "Software" also includes any updates of the Software provided to the Licensee by Meridian at its option.

1.4 "Consulting Services" shall mean activities by Licensor for customizations, enhancements or modifications to the licensed Software in the areas of business strategy, business integration, business process improvement, training, management development, project management, computer programming, systems integration, data processing, Software development and other specific activities related to improving the County's computer systems, training or personnel to operate the same, creation or modification of Software, and related consulting activities.

1.5 "Maintenance and Support Services" shall mean the routine maintenance of the Software, including patches, fixes and updates in addition to technical support provided to remedy issues encountered by the County as required for the County to achieve optimal performance of the licensed Software.

1.6 "Support Services" shall mean the process to resolve reported incidents through error correction, patches, hot fixes, workarounds, replacements or any other type of correction or modification required to fully utilize the Software capabilities, as outlined in Appendix A, "Scope of Services."

1.7 "Authorized User" shall mean a collective reference to Self-Hosted Users and Meridian Managed and SaaS Hosted Users.

1.8 "Meridian Content" shall mean proprietary information, materials, databases and other content owned by or licensed to Meridian, whether or not proprietary, which are made available to each self-hosted user through Meridian self-hosted Software or to each hosted user through Meridian SaaS.

1.9 "Meridian Self-Hosted Software" applications shall mean Meridian's Software application known as Proliance® in object code form only, that has been purchased by Licensee.

1.10 "Project Content" shall mean any content originally provided by Licensee, or an authorized user, to Meridian Hosted Applications, or Meridian Self-Hosted Software in the course of its normal use and operation. Project content does not include Hosted User Information.

1.11 "Self-Hosted User" shall mean Licensee or Licensee's employee, consultant, or independent contractor who has received a valid Site Key from Meridian provided that for each individual using the meridian Self-Hosted Software a separate and valid license for each such individual has been purchased.

1.12 "SketchUp® Software" shall mean software licensed by Trimble Navigation Limited under the name SketchUp.

## ARTICLE 2. GRANT OF RIGHTS

2.1 License. Subject to the terms and conditions of this Agreement , Licensor authorizes the County on a named user, non-exclusive, non-transferable and non-assignable basis to use the Licensor's Software for "Self-Hosted Users" that is perpetual solely to (i) access and execute the Licensor's Software only using a site key, and only for the County's internal business operations at the site; and (ii) input, upload, download and modify the Software content available through the Software in connection with the normal course of the operation of the Software. This license does not include the right to grant sublicenses or to make derivative works of the Software. Should the County require the transfer of license(s) registration to an entity other than the County, the County must submit to the Licensor an Assignment Agreement which will assign the County's right, title, and interest, and delegates all of the County's obligations responsibilities and duties, in and to the Agreement or separate entity ("Assignee") and Assignee must accept the assignment of all of the County's obligations, responsibilities and duties under this Agreement and all of the County's right, title and interest in and to this Agreement.

Trimble SketchUp API's are provided by Trimble Navigation Limited ("Trimble") according to the terms and conditions which outline Licensee's rights and responsibilities when using SketchUp API's and are located in located in Appendix C to this Agreement. Any future changes to the terms and conditions are subject to agreement by the County and additional terms may apply. These terms and conditions outline Licensee's rights and responsibilities when using SketchUp API's. Additional terms may apply to the use of an API, including additional terms of service, terms within the accompanying API documentation, and any applicable policies or guidelines. If there is a conflict between these terms and the additional terms, the additional terms apply for that conflict. If Licensee uses the API's as an interface to, or in conjunction with other Trimble products and services, then the terms for such products and services also apply.

2.2 Documentation. The documentation for Licensor's Software shall be made available to the County and additional copies of such documentation are available in electronic form on Licensor's website. Each authorized licensee may download and print such documentation solely for such user's licensed use.

2.3 Additional Software Licenses. During the term of the Agreement, should the County wish to purchase additional Software licenses from the Licensor, the fees shall be according to Appendix B "Price Schedule". All additional licenses purchased shall be documented in writing by both parties. .

## ARTICLE 3. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows:

1) These terms and conditions including all attachments, exhibits, and appendixes and any associated addenda thereof, including Appendix C Trimble SketchUp ASPIs Terms of Use.
2) Appendix A – Scope of Services
3) Appendix B – Price Schedule

## ARTICLE 4. AGREEMENT TERM

4.1 The Agreement shall become effective on the date that is it is signed by the County or the licensor, whichever is later and shall be for the duration of three (3) years. The County, at its sole discretion, reserves the right to exercise one (1) two (2) year option to renew for this Agreement.

4.2 Extension. The County also reserves the right to exercise its option to extend this Agreement for up to one hundred-eighty (180) calendar days beyond the current Agreement period or beyond any of the renewals.

4.3 Notification. The County will notify the Licensor in writing of the extension. This Agreement may be further extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Licensor, upon approval by the Board of County Commissioners.

## ARTICLE 5. MAINTENANCE AND SUPPORT SERVICES

5.1 Licensor Obligations. As part of Licensor's obligations under Maintenance and Support Services Licensor will maintain the Software so that it will substantially conform to the current Software documentation, and that the original media and current Software documentation are free from defects in material and workmanship under normal use, provided the Software is used in accordance with the Software documentation and with compatible computer hardware and operating systems. Licensor shall provide the County with the following Software Subscription and Maintenance and Support Services to support the products licensed by the County:

a) Provision of known error corrections by delivery of available patches via electronic communication and for download via the Internet.
b) Provision of available minor updates (bundling of several error corrections in one version) for download via the Internet.
c) Provision of available medium upgrades (version with additional / enhanced functions) for download via the Internet.
d) Provision of available major upgrades (version with substantially enhanced volume of functions).
e) Information via electronic communication (email) when new minor/medium/major updates are available.

The Software Maintenance and Support Services listed in this clause 5.1 only comprise the products licensed by the County, but not any new products of the same product family. The granting of rights of use and the delivery of the relevant license files for all minor, medium and major upgrades shall be limited to the number and type of products for which this Agreement has been concluded.

5.2 Telephone Support. For the term of this Agreement, if County is on a prepaid annual Software Subscription and Maintenance ("SSM") plan, Licensor shall provide telephone support in the following manner: Queries for specific technical problems and failures are possible at any time. For this purpose, the County will generally leave a message indicating the exact problem description and a classification in the following priority and error levels:

- **Priority 1 (Critical):** Complete loss of service or data corruption or critical functionality restricted with no available workaround. (Examples: unable to access databases, extreme latency, or group of users cannot log in).
- **Priority 2 (High):** Limitations or defects that severely limit the successful use of the application. (Examples: bid submittals aren't working, budget reports don't print or updates aren't saving in the database)
- **Priority 3 (Medium):** Items that minimally limit non-critical application functionality. A workaround exists, but may not be practical for all customers. (Examples: changing a field size, adding fields to a report, adding links to access documents directly, or disabling buttons if permissions aren't set)
- **Priority 4 (Low):** How-to or enhancement requests that provide an alternative means of doing something. Cosmetic defects are also included. (Examples: changing the order of items displayed in a report, changing fonts, or creating a pop-up box for reviewing entered data)

Licensor's response times (via phone or e-mail) to the County (Monday – Friday, 8 a.m. until 8 p.m. Eastern Standard Time, excluding Licensor's observed holidays).

5.3 Incident Response/Resolution Times:

| Definitions | Response Time | Recovery Goal | Resolution or Action Plan Goal |
|---|---|---|---|
| **Priority 1 Critical**<br>Complete loss of service or Software causes data corruption, critical functionality restricted with no workaround | Initial response within 2 hours of notification via phone or e-mail with regular status updates 1-2x daily | 1-2 days | 1-3 days |
| **Priority 2 High**<br>Application severely limited or impacts large number of users. Licensor support or development assistance needed for workaround | Initial response within 24 hours or less via phone or e-mail with regular status updates every 1-2 days | 5-10 days | next maintenance release |
| **Priority 3 Medium**<br>Workaround is available. Application slightly limited | Initial response within next working day via phone or email with status updates as needed until planning priority is set | 10-30 days | As communicated by the planning priority |
| **Priority 4 Low**<br>Informational inquiries. Enhancement requests | Initial response within next working day via phone or email with status updates as needed until planning priority is set | N/A | N/A |

5.4 Error investigation. Upon receipt of notification from County of an apparent error or problem with the Software licensed from Licensor, Licensor will use commercially reasonable efforts to promptly investigate the issue and to advise the County that either an error does not exist, or confirm that one does exist as soon as reasonably possible and what, if any, work-around exists. Errors shall be deemed to be any repeatable design or programming error in the Software licensed from Licensor which prevents the licensed Software from substantially complying with the functionality as set out in the user documentation (on-line or hard-copy) delivered or provided with the Software, which error adversely affects the use, function or performance of the licensed Software. When errors are confirmed, Licensor will use commercially reasonable efforts to correct such errors and provide County with an updated version for the licensed Software as soon as it is practical in Licensor's sole discretion.

Information regarding resolution timelines and fixes should be considered as working guidelines. In many instances the timeframes indicated will yield an action plan, with interim workarounds put in place if identified until a permanent fix is available. Determining whether a request or fix is incorporated into a future release of a Licensor product is solely at the discretion of Licensor representatives.

Licensor reserves the right to make the final determination on the priority level of a support incident. Licensor may downgrade the priority of a support incident and notify the client of this action if any of the following conditions apply:

- A workaround is provided.
- Licensor support isn't able to reproduce the reported problem and the customer isn't able to support additional troubleshooting efforts through accessible persons or resources, including access to the customer's environment

Licensor will take commercially reasonable care to ensure that all Software it delivers is virus-free. Because updates are made available via the internet, Licensor cannot guarantee that updates are virus-free. As such, Licensor strongly recommends that County follows accepted best practices for the computing industry and run virus-checking procedures on any Software prior to installation.

5.5 Email Support. For the term of this Agreement if the County is on a prepaid annual Software Subscription and Maintenance ("SSM") plan, Licensor shall provide support via email. The error and priority levels set forth in clause 5.2 above and the response times indicated therein are applicable.

5.6 Subject Matter of Support Services. The subject matter of support services in clauses 5.2 and 5.3 above is the help with installation or operation problems and alleged program errors. Installation services or other support services at the County's location are not a subject matter of this Maintenance Agreement.

5.7 Payments. Any and all support and Maintenance and Support Services under this Agreement shall be compensated for by means of an annual flat rate. The fees are due for payment annually in advance upon invoicing by licensor as set forth in Exhibit "B Price Schedule".

## ARTICLE 6. SOFTWARE MODIFICATIONS

6.1 Error Corrections and Updates. If County is on a prepaid annual Software Subscription and Maintenance ("SSM") plan, the Licensor will provide the County with error corrections, bug fixes, patches or other updates to the Software licensed hereunder in object code form to the extent available in accordance with the Licensor's release schedule for the term of this Agreement.

6.2 Software Enhancements or Modifications. Following execution of this Agreement, Licensor may perform mutually agreed upon Consulting Services as defined in Clause 1.4 for configuration or customization, including but not limited to, discovery, documentation of specifications and/or process documents, configurations, data migration, integrations, customization, implementation services, custom reporting, quality assurance and testing, project management and classroom training. These Consulting Services may include, without limitation, the incorporation of certain features, enhancements, modifications and customizations to the Software and/or interfaces to certain other software utilized by the County. Upon the County's request for such Consulting Services, the Licensor shall prepare a proposed Statement of Work ("SOW") for the specific Project that shall define in detail the Services to be performed along with a cost proposal including all costs pertaining to furnishing the County with the Consulting Services and the deliverables for the specific Project.

a) After the SOW has been accepted, a detailed requirements and detailed design document shall be submitted illustrating the complete financial terms that govern the SOW, proposed Project staffing, anticipated Project schedule, and other information relevant to the Project. Each SOW executed hereunder shall automatically incorporate the terms and conditions of this Agreement. Such enhancements or modifications shall remain the property of the Licensor unless otherwise documented in a separate Statement of Work. Notwithstanding the foregoing, performance of any such modifications shall not compromise the Licensor's warranty obligations.

b) Following the County's acceptance of all enhancements/modification, the Licensor shall provide the County, if so requested with written confirmation of the date the enhancements/modification was applied to the Software, and any and all Software documentation relating to the Software and or enhancements/modification thereto.

6.3 Title to Modifications. All such error corrections, bug fixes, patches, updates or new releases shall be the sole property of the Licensor unless otherwise documented in the Statement of Work as owned by the County.

## ARTICLE 7. LICENSE FEES AND PAYMENT

7.1 License Fee. In consideration of the license rights granted in Article 2 above, the County shall pay the Maintenance and Support Services fees and Additional Software License Fees and Professional Services fees in accordance with Section 7.4 set forth below. The County shall have no obligation to pay the Licensor or any additional sum in excess of this amount, except for a change and/or modification to the Agreement, which is approved and executed in writing by the County and the Licensor. All Services undertaken by the Licensor or before County's approval of this Agreement shall be at the Licensor's risk and expense.

7.2 Travel. With respect to travel costs and travel related expenses, the Licensor agrees to adhere to CH. 112.061 of the Florida Statutes as they pertain to out-of-pocket expenses including employee lodging, transportation, per diem, and all miscellaneous cost-and fees. The County shall not be liable for any such expenses that have not been approved in advance, in writing, by the County.

7.3 Fixed Pricing. Prices shall remain firm and fixed for the term of the Agreement, including any option or extension periods; however, the Licensor may offer incentive discounts to the County at any time during the Agreement term, including any renewal or extension thereof.

7.4 Invoices. All amounts payable hereunder by the County for the following items: 1) Maintenance and Support Services for the Software licenses are based upon an annual prepaid subscription basis; 2) Additional licenses shall be invoiced upon delivery of the license based upon the license fees mutually agreed to via a Scope of Work; 3) Professional Services shall be invoiced on a time and materials basis. All pricing shall be in accordance with Appendix B "Price Schedule". The cost of associated materials must be included within the Scope of Work and mutually agreed upon before the work commences.

All invoices issued by the Licensor, shall be supported by receipt bills or other documents reasonably required by the County. Invoices shall show the County's Agreement number, and shall have a unique invoice number assigned by the Licensor. It is the policy of Miami-Dade County that payment for all purchases by County agencies shall be made in a timely manner and that interest payments be made on late payments. In accordance with Florida Statutes, Section 218.74 and Section 2-8.1.4 of the Miami-Dade County Code, the time at which payment shall be due from the County shall be forty-five (45) days from date of Licensor's invoice. The time at which payment shall be due to small businesses shall be thirty (30) days from receipt of a proper invoice. All payments due from the County and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Manager, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County.

Invoices and associated back-up documentation shall be submitted in duplicate by the Licensor to the County as follows:

Miami-Dade County
Water and Sewer Department
Accounts Payable
3701 SW 38th Ave
Miami, FL 33146

*Attention: Erica Lee, Accounting Clerk*

Email: Erical@miamidade.gov
Phone: 786-552-8187
Fax: 786-552-8626

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

**ARTICLE 8. PROTECTION OF SOFTWARE**

8.1 Proprietary Information. The Licensor acknowledges that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could hard the County's proprietary interest therein.

8.2 Proprietary Rights. The Licensor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Licensor hereunder, including all copyright and other proprietary rights therein, which the Licensor as well as its employees, agents, subconsultants and suppliers may use only in connection of the performance of Services under this Agreement.

a) All rights, title and interest in and to certain ideas, designs and methods, specifications and other documentation related thereto developed by the Licensor and its subconsultants specifically for the County for certain features, enhancements, modifications and/or customizations under a Statement of Work, hereinafter referred to as "Developed Works" shall remain the property of the Licensor unless otherwise documented in the Statement of Work as owned by the County.

b) Accordingly, neither the County nor its employees, agents, subconsultants or suppliers shall have any proprietary interest in such Developed Works unless otherwise documented in the Statement of Work as owned by the County. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the County, or any employee, agent, subconsultants or supplier thereof, without the prior written consent of the Licensor, except as required for the County or Licensor's performance hereunder.

c) The Licensor hereunder shall retain all intellectual property rights and exclusive ownership of all copyrights, trademarks, patents and/or other intellectual property rights in and to the Software. Licensee is not granted any rights in the Software other than the license rights expressly set forth in Article 2 of this Agreement.

8.3 Limitations on Use:

a) The County may not copy, rent, lease, sell, sublicense, assign, loan, time-share or otherwise transfer or distribute copies of the Software or the documentation. The County may physically transfer the Software from one computer to another provided that the County does not retain any copies of the Software in excess of the licenses purchased, including any copies stored on a computer. The County may permanently transfer this license to another user, but only if the County transfers or destroys all copies of the Software, and the recipient agrees in writing to be bound by all of the terms of this Agreement.

b) The County agrees that it will not decompile, disassemble, or otherwise reverse engineer the Software, and the County will use its best efforts to prevent the County's employees and contractors from doing so, except to the extent that such restriction is expressly prohibited by applicable law. The County may not modify, adapt, create a derivative work, merge, or translate the Software without the prior written consent of Licensor.

c) Specific third-party Suppliers may be identified in the Software documentation which is sold or licensed by Licensor. The County may be asked to agree to additional terms and conditions specific to particular third-party Suppliers, as described in the Software documentation, and are incorporated herein by reference. Licensor requires the County to 1) refrain from improper or unauthorized copying of the third-party supplier product(s), or portions thereof, except for reasonable backup purposes; and 2) refrain from any reverse engineering, decompilation and/or disassembly of the third-party supplier product(s), or portions thereof, save to the extent permitted under any relevant laws.

Use of Microsoft® Bing™ Maps Platform APIs' (formerly Virtual Earth™ Maps Platform and Map Control) is limited to the terms and conditions as described under the Terms of Use for Microsoft® Bing™ Maps Platform APIs: http://www.microsoft.com/maps/product/terms.html.

If the Licensor as part of this Agreement provides the County with documents that contain trade secrets, as defined in Florida Statutes Section 815.081, then in accordance with Florida Statutes section 119.07191)(f), those trade secrets may not be disclosed by the County to any third parties and must be maintained confidential. In order for this obligation on the County to apply, Licensor must properly identify and mark those documents which contain trade secrets as "confidential trade secret information."

d) If the Software purchased from the Licensor includes third party supplier Software which integrates a full or partial copy of third party Software into the Software, the third party supplier Software may only be used with Licensor's product with which it was provided and accessing data that is not created or used by Licensor's product is not permitted.

e) The County may make two (2) copies of the Software for backup or archival purposes only.

f) GOOGLE Content: SketchUp software distributed by Trimble allows the County to access and view certain content, including photographic imagery sub-licensed to Trimble by Google Inc. ("Google") and Google's licensors (the "Google Content"). By using the SketchUp software, the County does not receive any ownership rights, and Google and/or its licensors retain all ownership rights in the Google Content. The County may not use, access or allow others to use or access the Google Content in any manner not permitted under the Terms and Conditions, unless the County has been specifically permitted to do so by Trimble, Google or by the owner of that Content, in a separate agreement. The Photo Textures feature provides access to certain Google-owned Street View imagery, which has been licensed by Google to Trimble, to enable creation of photo- textured models (the "Street View Content"). Trimble grants The County a personal, worldwide, royalty-free, non-assignable and non- exclusive sub-license to use, reproduce, modify, and publicly perform and publicly display, and create derivative works of the Street View Content as embodied in a model created with the Photo Textures feature (a "Photo Textures Model"). The County may not disassociate or separate the Street View Content from the Photo Textures Model. Without Trimble or Google's prior written authorization, the County may not use or distribute a Photo Textures Model in a mapping or geographic application or service (other than a Google owned and operated service, such as Google Earth).

8.4 Ownership. County further acknowledges that all copies of the Software in any form provided by the Licensor are the sole property of the Licensor. The County shall not have any right, title, or interest to any such Software or copies thereof except as provided in this Agreement, and further shall secure and protect all Software and Documentation consistent with maintenance of Licensor's proprietary rights therein.

**ARTICLE 9. CONFIDENTIALITY**

9.1 As a political subdivision of the State of Florida, Miami-Dade County is subject to Florida's Public Records Law, Section 119 of the Florida Statutes. Notwithstanding anything else in this Article to the contrary, the County's compliance with, or good faith attempt to comply with the requirements of Chapter 119 of Florida Statute shall not be considered breach of this Agreement.

9.2 Acknowledgement. County hereby acknowledges and agrees that associated Software constitute and contain proprietary products and trade secrets of the Licensor embodying creative efforts and confidential information, ideas, and expressions. Accordingly, the County agrees to treat (and take precautions to ensure that its employees treat) the associated Software as confidential in accordance with the confidentiality requirements and conditions set forth below.

a) All materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, or which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Licensor or its employees, agents, subconsultants or suppliers for any purpose other than for the benefit of the County, unless required by law.

b) In addition to the foregoing, all County employee information and County financial information shall be considered confidential information and shall be subject to all the requirements stated herein. Neither the Licensor, nor its employees, agents, sub consultants or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Licensor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.

If the Licensor as part of this Agreement provides the County with documents that contain trade secrets, as defined in Florida Statutes Section 815.081, then in accordance with Florida Statutes section 119.07191)(f), those trade secrets may not be disclosed by the County to any third parties and must be maintained confidential. In order for this obligation on the County to apply, Licensor must properly identify and mark those documents which contain trade secrets as "confidential trade secret information."

9.4 Injunctive Relief. It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Licensor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Licensor or its employees, agents, sub consultants or suppliers without the prior written consent of the County.

9.5 Survival. Both the County's and Licensor's obligations under this Article 9 will survive the termination of this Agreement or of any license granted under this Agreement for whatever reason.

**ARTICLE 10. WARRANTIES**

10.1 Ownership. The Licensor represents that it is the owner of the entire right, title, and interest in and to Software, and that it has the sole right to grant licenses thereunder, and that it has not knowingly granted licenses thereunder to any other entity that would restrict rights granted hereunder except as stated herein.

10.2 Limited Warranty. Licensor represents and warrants to the County that the Software, when properly installed by the County and used with the designated equipment, will perform substantially as described in Licensor's then current documentation for such Software for a period of one hundred eighty (180) calendar days from shipment or electronic download of the Software.

10.3 Limitations. Notwithstanding the warranty provisions set forth in Section 10.2 above, all of Licensor's obligations with respect to such warranties shall be contingent on County's use of the Software in accordance with this Agreement and in accordance with this Agreement and documentation of the Software. The Licensor shall have no warranty obligations with respect to any failures of the Software which are the result of accident, abuse, misapplication, or extreme power surge.

10.4 Licensor's Sole Remedy. The Licensor's entire liability and the County's exclusive remedy shall be, at the Licensor's option, either to (1) correct or help the County work around or avoid a reproducible Error or (2) replace defective media or Software documentation. An "Error" is a defect in the Software that causes it not to perform substantially in accordance with the limited warranty set forth; provided the Licensor receives written notice from the County during the warranty period of a breach of warranty. Any replacement Software will be warranted for the remainder of the original warranty period.

10.5 Limitation of Liability. COUNTY ACKNOWLEDGES AND AGREES THAT THE CONSIDERATION WHICH THE LICENSOR IS CHARGING HEREUNDER DOES NOT INCLUDE ANY CONSIDERATION FOR ASSUMPTION OF THE RISK OF THE COUNTY'S CONSEQUENTIAL OR INCIDENTAL DAMAGES WHICH MAY ARISE IN CONNECTION WITH COUNTY'S USE OF THE SOFTWARE AND DOCUMENTATION.

Any provision herein to the contrary notwithstanding, the maximum liability of Licensor to any person, firm or corporation whatsoever arising out of or in the connection with any license, use or other employment of any Software delivered to the County hereunder, whether such liability arises from any claim based on breach or repudiation of Agreement, warranty, tort or otherwise, shall in no case exceed the actual price paid to the Licensor by the County for the Services or Software whose license, use, or other employment gives rise to the liability

10.6 Limited Warranty and Liability – Software. Licensor warrants to the County only that the Software will substantially conform to the Software documentation, and that the original media and Software documentation are free from defects in material and workmanship under normal use, provided the Software is used in accordance with the Software documentation and with compatible computer hardware and operating systems. Licensor does not warrant that the Software will meet all of the County's requirements, nor be error-free, nor that all Software bugs which are not material, in the opinion of Licensor, to the operation of the Software will be resolved. The Limited Warranty Period for the Software is one hundred and eighty (180) calendar days from the date of shipment or electronic delivery of the Software. SketchUp Software is provided on an "as is" basis and without warranty of any kind.

This limited warranty is void if failure of the Software has resulted from any modification of the Software by any party other than Licensor or through accident, abuse, or misapplication. Licensor's entire liability and the County's sole and exclusive remedy shall be, at Licensor's option, either to repair or replace, at Licensor's sole option, any defective portion of the Software. However, in the event Licensor has exhausted commercially reasonable efforts to repair or replace the defective application, Licensor may discharge Licensor's warranty obligations by refunding any amounts actually paid by the County to Licensor for use of or access to the defective application. The foregoing remedy is available only if (i) the County promptly and within the warranty period notifies Licensor in writing of the defective application and (ii) Licensor determines, in Licensor's sole discretion, that such defect actually exists and was not caused by misuse, modifications not authorized by Licensor in writing, neglect, improper installation or testing, attempts to repair, the County's actions or any other cause beyond the scope of normal usage, or by accident, fire, power failure, power surge or other hazard. Any replacement Software will be warranted for the remainder of the original warranty period only.

10.7 Limited Warranty and Liability – Services. Licensor agrees to perform the Services in a professional manner and as otherwise set forth is this Agreement or separate Statement of Work. Except as expressly provided herein, Licensor disclaims all other warranties, whether express or implied, including the implied warranties of merchantability, fitness for a particular purpose and non-infringement of any Intellectual Property Rights. In addition to any liability limitations provided elsewhere in this Agreement, if Licensor is unable to perform the Services, the County shall be limited in its damages to a refund of the money paid for the Services that do not meet the obligations of an associated Statement of Work.

10.8 Third Party Products and Services. The County acknowledges that its rights under this Agreement, in the nature of warranty or otherwise, are solely against Licensor. No supplier makes any warranty, assumes any liability, or undertakes to furnish to the County any support or information concerning the Software or any portion of the Software.

## ARTICLE 11. INTELLECTUAL PROPERTY INDEMNIFICATION

Licensor shall indemnify, hold harmless and defend the County against any action brought against the County to the extent that such action is based on a claim that the unmodified Software, when used in accordance with this Agreement, infringes a United States copyright and Licensor shall pay all costs, settlements and damages finally awarded; provided, that the County promptly notifies Institution in writing of any claim, gives the Licensor sole control of the defense and settlement thereof and provides all reasonable assistance in connection therewith. If any Software is finally adjudged to so infringe, or in Licensor's opinion is likely to become the subject of such a claim, the Licensor and County upon mutual agreement shall, at its option, either: (i) procure for the County the right to continue using the Software (ii) modify or replace the Software to make it non-infringing, or (iii) refund the fees paid, upon return of the Software. Licensor shall have no liability regarding any claim arising out of: (i) use of the Software in combination with non-County software, data or equipment if the infringement was caused by such use or combination, (ii) any modification or derivation of the Software not specifically authorized in writing by the Licensor or (iii) use of third party Software.

## ARTICLE 12. DEFAULT AND TERMINATION

12.1 Termination. The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its obligations under this Agreement with the County through fraud, misrepresentation or material misstatement.

a) The County may, as a further sanction, terminate or cancel any other Agreement(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.
b) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its obligations with the County under this Agreement through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Licensor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.

12.2 Events of Default. This Agreement may be terminated by the non-defaulting party if any of the following events of default occur: (1) if a party materially fails to perform or comply with this Agreement or any provision hereof and fails to cure such breach within thirty (30) calendar days of written notice per Section 12.3; or (2) if either party fails to strictly comply with the provisions of Article 9 (Confidentiality) or (3) makes an assignment in violation of Article 15 (Nonassignability); or (4) if the Licensor becomes insolvent or bankrupt, or makes an assignment for the benefit of creditors.

12.3 Effective Date of Termination. Termination due to a material breach of Articles 2 (Grant of Rights), 8 (Protection of Software), or 9 (Confidentiality) shall be effective on date of written notice. In all other cases, termination shall be effective thirty (30) calendar days after notice of termination to the defaulting party if the defaults have not been cured within such thirty (30) calendar day period.

12.4 Obligations on Termination. Within ten (10) calendar days after termination of this Agreement, County shall cease and desist all use of the Software and Software documentation.

## ARTICLE 13. ANNUAL APPROPRIATION

The County's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Board of County Commissioners. Cancellation will not cause any penalty or expense to the County, except as to the portions of payments agreed upon and for which funds have been appropriated and budgeted. Service/Maintenance can be cancelled at any time that the Licensor is notified in writing, at least thirty (30) days prior to cancellation. No refunds will be given for prepaid annual Maintenance and Support Services if the County cancels or terminates the Maintenance and Support Services during the term period prior to the end date of the specific term year. There will be no other early termination charges from the Licensor for canceling service/maintenance during the year.

## ARTICLE 14. NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

**(1) To the County Project Manager:**

Miami-Dade County
Water and Sewer Department
3701 SW 38th Ave
Miami, FL 33146

*Attention: Greg Govia*

Phone: (786) 552-8074
Fax: (786) 552-8574
E-mail: gag@miamidade.gov

**and to the Agreement Manager:**

Miami-Dade County
Internal Services Department
Procurement Management Services Division
111 N.W. 1st Street, Suite 1300
Miami, FL 33128-1974

*Attention: Josh Brown*

Phone: (305) 375-4725
Fax: (305) 375-5688
E-Mail: joshbro@miamidade.gov

**(2) To the Licensor**

Meridian Project Systems, Inc.
1720 Prairie City Road, Suite 120
Folsom, CA 95630

*Attention: Kathryn Radley-Timberlake, VP of Finance*

Phone: (916) 294-2166
Fax: (916) 294-2167
E-mail: kathy_radley@trimble.com

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

**ARTICLE 15. NONASSIGNABILITY**

Licensor shall not assign this Agreement or its rights hereunder without the prior written consent of the County, which consent shall not be unreasonably withheld. Licensor shall provide a written notification to the County of its intent to assign or transfer this Agreement to an entity as part of a corporate reorganization, consolidation, merger or sale of assets or stock, provided such entity assumes all of Licensor's obligations hereunder, and the County shall have thirty (30) business days from date of notification to authorize the assignment or transfer of this Agreement for such action.

**ARTICLE 16. MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL REVIEW**

According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General (IG) which may, on a random basis, perform audits, inspections, and reviews of all County/Trust contracts. This random audit is separate and distinct from any other audit by the County. To pay for the functions of the Office of the Inspector General, any and all payments to be made to the Contractor

under this contract will be assessed one quarter (1/4) of one (1) percent of the total amount of the payment, to be deducted from each progress payment as the same becomes due unless, as stated in the Special Conditions, this Contract is federally or state funded where federal or state law or regulations preclude such a charge. The Contractor shall in stating its agreed process be mindful of this assessment, which will not be separately identified, calculated or adjusted in the proposal or bid form. The audit cost shall also be included in all change orders and all contract renewals and extensions.

The Miami-Dade Office of Inspector General is authorized to investigate County affairs and empowered to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts and transactions. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of witnesses and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to project design, bid specifications, (bid/proposal) submittals, activities of the (Contractor/ Vendor/ Consultant), its officers, agents and employees, lobbyists, County and Public Health Trust staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon ten (10) days written notice to the Contractor shall make all requested records and documents available to the Inspector General for inspection and copying. The Inspector General shall have the right to inspect and copy all documents and records in the (Contractor/Vendor/Consultant's) possession, custody or control which in the Inspector General's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and with successful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, (bid/proposal) and contract documents, back-change documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records and supporting documentation for the aforesaid documents and records.

The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence regarding the acquisition (bid preparation) and performance of this contract, for examination, audit, or reproduction, until three (3) years after final payment under this contract or for any longer period required by statute or by other clauses of this contract. In addition:

1. If this contract is completely or partially terminated, the Contractor shall make available records relating to the work terminated until three (3) years after any resulting final termination settlement; and
2. The Contractor shall make available records relating to appeals or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

The provisions in this section shall apply to the (Contractor/Vendor/Consultant), its officers, agents, employees, subcontractors and suppliers. The (Contractor/Vendor/Consultant) shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the (Contractor/Vendor/Consultant) in connection with the performance of this contract.

Nothing in this section shall impair any independent right to the County to conduct audits or investigative activities. The provisions of this section are neither intended nor shall they be construed to impose any liability on the County by the (Contractor/Vendor/Consultant) or third parties.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Trust; (j) professional service agreements under $1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; (n) interlocal agreements; and (o) grant agreements granting not-for profit organizations Building Better Communities General Obligation Bond Program funds.

Notwithstanding the foregoing, the Trust may authorize the inclusion of the fee assessment of one-quarter (1/4) of one percent in any exempted contract at the time of award.

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all Trust contracts including, but not limited to, those contracts specifically exempted above.

## ARTICLE 17. GOVERNING LAW

This Agreement, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be Miami-Dade County.

## ARTICLE 18. COUNTY USER ACCESS PROGRAM (UAP)

18.1 User Access Fee. Pursuant to Miami-Dade County Budget Ordinance No. 03-192, this Agreement is subject to a user access fee under the County User Access Program (UAP) in the amount of two percent (2%). All sales resulting from this Agreement, or any Agreement resulting from this solicitation and the utilization of the County Agreement price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to all Agreement usage whether by County Departments or by any other governmental, quasi-governmental or not-for-profit entity.

The Licensor providing goods or services under this Agreement shall invoice the Agreement price and shall accept as payment thereof the Agreement price less the 2% UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall retain the 2% UAP for use by the County to help defray the cost of the procurement program. Vendor participation in this invoice reduction portion of the UAP is mandatory.

18.2 Joint Purchase. Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County Agreement pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Licensor must obtain the participation number from the entity prior to filling any order placed pursuant to this section. Licensor participation in this joint purchase portion of the UAP, however, is voluntary. The Licensor shall notify the ordering entity, in writing, within 3 work days of receipt of an order, of a decision to decline the order.

For all ordering entities located outside the geographical boundaries of Miami-Dade County, the Licensor shall be entitled to ship goods on an "FOB Destination, Prepaid and Charged Back" basis. This allowance shall only be made when expressly authorized by a representative of the ordering entity prior to shipping the goods.

The County shall have no liability to the Licensor for the cost of any purchase made by an ordering entity under the UAP and shall not be deemed to be a party thereto. All orders shall be placed directly by the ordering entity with the Licensor and shall be paid by the ordering entity less the 2% UAP.

18.3 Licensor Compliance. If a Licensor fails to comply with this Article, that Licensor may be considered in default by the County in accordance with this Agreement.

## ARTICLE 19. SEVERABILITY

If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

## ARTICLE 20. PROFESSIONAL SERVICES

The parties anticipate that from time to time they will be in contact regarding the County's needs for assistance on clearly defined projects in the areas of business strategy, business integration, business process improvement, training, project management, Software programming, systems integration, data processing, Software development and other specific activities that the Licensor shall provide to the County its professional consulting services for improving the County's use of the solution, training or personnel to operate the same, creation or modification of Software, and related consulting activities ("Services"). These services shall be billed in accordance with Appendix B "Price Schedule".

## ARTICLE 21. VENDOR REGISTRATION AND FORMS/CONFLICT OF INTEREST

a) Vendor Registration.

The Contractor shall be a registered vendor with the County – Department of Procurement Management, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Contractor confirms its knowledge of and commitment to comply with the following:

1. ***Miami-Dade County Ownership Disclosure Affidavit***
   (Section 2-8.1 of the County Code)

2. ***Miami-Dade County Employment Disclosure Affidavit***
   *(Section 2.8-1(d)(2) of the County Code)*

3. ***Miami-Dade Employment Drug-free Workplace Certification***
   *(Section 2-8.1.2(b) of the County Code)*

4. ***Miami-Dade Disability and Nondiscrimination Affidavit***
   *(Section 2-8.1.5* of the County Code*)*

5. ***Miami-Dade County Debarment Disclosure Affidavit***
   *(Section 10.38 of the County Code)*

6. ***Miami-Dade County Vendor Obligation to County Affidavit***
   *(Section 2-8.1 of the County Code)*

7. ***Miami-Dade County Code of Business Ethics Affidavit***
   *(Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)*

8. ***Miami-Dade County Family Leave Affidavit***
   *(Article V of Chapter 11 of the County Code)*

9. ***Miami-Dade County Living Wage Affidavit***
   *(Section 2-8.9 of the County Code)*

10. ***Miami-Dade County Domestic Leave and Reporting Affidavit***
    *(Article 8, Section 11A-60 11A-67 of the County Code)*

11. ***Subcontracting Practices***
    *(Ordinance 97-35)*

12. ***Subcontractor /Supplier Listing*** *(Section 2-8.8 of the County Code)*

13. ***Environmentally Acceptable Packaging***

14. *(Resolution R-738-92)**W-9 and 8109 Forms*** (as required by the Internal Revenue Service)

15. ***FEIN Number or Social Security Number***
    In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:
    - Identification of individual account records
    - To make payments to individual/Contractor for goods and services provided to Miami-Dade County
    - Tax reporting purposes
    - To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

16. ***Office of the Inspector General***
    (Section 2-1076 of the County Code)

17. ***Small Business Enterprises***
    The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

18. ***Antitrust Laws***
    By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.

b) Conflict of Interest. Section 2-11.1(d) of Miami-Dade County Code as amended by Ordinance 00-1, requires any county employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County from competing or applying for any such contract as it pertains to this solicitation, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render this Agreement voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

## ARTICLE 22. STATEMENT OF WORK

Prior to the commencement of Services for any Project, the County and the Licensor shall mutually agree upon the terms and conditions required to complete a Statement of Work ("SOW") for the specific Project that shall define in detail the Services to be performed. After the SOW has been accepted a detailed requirements and detailed design document shall be submitted illustrating the complete financial terms that govern the SOW, proposed Project staffing, anticipated Project schedule, and other information relevant to the Project. Each SOW executed hereunder shall automatically incorporate the terms and conditions of this Agreement.

## ARTICLE 23. DISPUTE RESOLUTION

Any dispute regarding this Agreement between the County and Licensor arising out of this Agreement that is not resolved by the authorized project executives within fifteen (15) business days shall be brought before the County Mayor and Licensor's General Manager (or designee) and shall be resolved in accordance with this Section. The project executives shall negotiate in good faith the resolution of any dispute in an effort to resolve the same within five (5) business days of one party's notice of dispute. In the event the project executives are unable to resolve a dispute within this time frame, the dispute shall escalate to representatives of the parties holding positions no less influential than Vice President (or comparable position) representing the Licensor and the County Mayor (or designee). If this informal dispute resolution process is unsuccessful and the Licensor and County Mayor are unable to resolve the dispute within five business (5) days of escalation, either of the parties shall be entitled to pursue all remedies not inconsistent with this Agreement. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder. Nothing in this Section shall prevent or delay either party from seeking orders for specific performance or interlocutory or injunctive relief on an ex-parte basis or otherwise or to preserve its position as creditor. Each Party shall continue to perform its obligations under this Agreement in good faith during the resolution of any disputes unless and until both parties agree that this Agreement has been terminated in accordance with the provisions hereof.

## ARTICLE 24. LICENSOR'S AUDIT RIGHTS

Licensor, or a Licensor designated agent, (the "Auditor") may upon fifteen (15) business days written notice to County, inspect any of County's facilities where the Software is used and audit records for the purpose of confirming County's compliance with the exercise of the licenses granted in the Licensor's End User License Agreement. All such audits will be conducted during reasonable business hours and in a manner that does not unreasonably interfere with County's business activities. The audit shall be performed at Licensor's sole expense. Licensor shall provide the County with a report identifying any true-up of license registrations and subsequent fees that may be owed to Licensor as a result of the audit findings.

## ARTICLE 25. EXPORT RESTRICTIONS

It is the policy of Licensor to comply strictly with US and host government laws and regulations when exporting or re-exporting. The U.S. Government maintains certain embargoes and restrictions that vary from country to country for the export and re-export of certain commodities and technical data of United States origin, including Software in any medium. Licensor and its entities and employees, worldwide, are prohibited from all dealings with any country on the Office of Foreign Assets Control ("OFAC") of the US Department of the Treasury Trade Sanctions List located at US Dept. of Commerce Bureau of Industry and Security: http://www.pmddtc.state.gov/embargoed_countries/index.html in addition to restricting business transactions with individuals on the Denied Persons List located at http://www.bis.doc.gov/dpl/default.shtm. Neither Licensor nor County shall export, directly or indirectly, any information acquired under this Agreement or any products utilizing any such information to any country for which the U.S. Government or any agency thereof at the time of export requires an export license or other government approval without first obtaining such license or approval.

## ARTICLE 26. INDEMNIFICATION AND INSURANCE

The Licensor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Licensor or its employees, agents, servants, partners principals or subcontractors. The Licensor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Licensor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Licensor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Upon County's notification, the Licensor shall furnish to the Internal Services Department, Procurement Management Division, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1. **Worker's Compensation Insurance** for all employees of the Licensor as required by Florida Statute 440.
2. **Public Liability Insurance** on a comprehensive basis in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be shown as an additional insured with respect to this coverage. The mailing address of Miami-Dade County 111 N.W. 1st Street, Suite 1300, Miami, Florida 33128-1974, as the certificate holder, must appear on the certificate of insurance.

3. **Automobile Liability Insurance** covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage.

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

**OR**

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Financial Services and are members of the Florida Guaranty Fund.

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within fifteen (15) business days. If the insurance certificate is received within the specified timeframe but not in the manner prescribed in this Agreement, the Licensor shall have an additional five (5) business days to submit a corrected certificate to the County. If the Licensor fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) business days, the Licensor shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such timeframe for submission has been extended by the County.

The Licensor shall be responsible for ensuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Licensor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period,

the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

ARTICLE 27. SPECIAL SECURITY REQUIREMENTS

Miami-Dade Water and Sewer Department (WASD) operates under strict security regulations. These regulations involve the issuance of identification (ID) cards after performing Criminal History Back Ground Checks of all non-WASD employees who are required to enter an WASD site frequently (more than 5 days in a 90 day period). These ID cards are required for access and are issued by WASD at the current cost of $60.00 per applicant per year. Therefore, the Licensor shall obtain and pay for ID cards for each of its employees and/or agents who will be frequently visiting or performing on-site services at WASD sites.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the Agreement date herein set forth below.

| LICENSOR | MIAMI-DADE COUNTY |
|---|---|
| By: | By: |
| Name: Geene Alhady | Name: Carlos A. Gimenez |
| Title: General Manager | Title: Mayor |
| Date: May 12, 2014 | Date: |
| Attest: Kathryn Radley-Timberlake, VP of Finance | Attest: Clerk of the Board |
| Corporate Seal | Approved as to form and legal sufficiency |
| Meridian Project Systems, Inc. Incorporated California April 14, 1995 | Assistant County Attorney |

## APPENDIX A – SCOPE OF SERVICES

Meridian Systems herein referred to as the "Licensor" shall provide ongoing Software maintenance support services for the existing Proliance Software in use by the Miami-Dade County Water and Sewer Department (WASD). Licensor is responsible under this Agreement to provide all required Software licenses, maintenance support services, and professional services. In addition, WASD reserves the right to purchases additional Proliance Software licenses and professional services as needed throughout the resultant contract term.

### A. SOFTWARE LICENSES GRANTED TO THE COUNTY & TO BE MAINTAINED AND SUPPORTED BY LICENSOR

| Software / Product Description | Product Number | Quantity |
|---|---|---|
| Cognos BI Professional SSM | ACP100750 | 3 |
| Meridian Developer Network | MDN100170 | 1 |
| Message Bus SSM | SA100410 | 1 |
| Pro – Analytics SSM | AAN100750 | 86 |
| Pro – Basic PPM – 3.0 | AB3100750 | 142 |
| Pro – Contributor | ACT100750 | 130 |
| Pro – Navigator for Outlook SSM | PN100750 | 1 |
| Pro – Platform 100 SSM | APS100750 | 3 |
| Pro – Standard PPM 3.0 | AS3100750 | 87 |
| Pro – View & Redline | AVR100750 | 47 |

### B. LICENSOR'S SOFTWARE SUBSCRIPTION AND MAINTENANCE ("SSM") SUPPORT SERVICES

Licensor agrees to provide certain selected support services on an annual Software Subscription and Maintenance ("SSM") Agreement as specified below for Software programs licensed by County from Licensor. Only those Licensor or third party products specifically covered under the SSM Agreement shall receive support services as outlined in the Subscription and Support Plan.

The Licensor's Support Services Handbook is published online (http://www.meridiansystems.com/images/PDF/Support%20Services%20Handbook.pdf) and the information is accurate as of the time that it was assembled. Licensor reserves the right to make changes to this handbook and to the policies included within it at any time to improve or enhance the support provided to our clients. At its discretion, Licensor will make updates to this manual available to County via SupportLink, email or direct mail.

**Software updates/upgrades.** The Licensor shall provide Software updates and upgrades at no additional cost to the County for covered Software during the term of the Software Subscription and Maintenance (SSM) Support Services Agreement. Software updates are defined as minor revisions that are designated as version or "dot" releases (i.e. updating from version 5.1 to 5.2). Software upgrades are defined as major revision releases (i.e. from version 5.2 to 6.0). New products are not included.

**Services not included.** Fees for subscription and support services described hereunder do not include the following:

(a) support of the Software licensed from Licensor other than as specified above;
(b) support of any modifications made to the Software licensed from Licensor, or any part thereof, by the County or for the County by persons other than Licensor;
(c) services for any and all problems which are subsequently determined by Licensor to be a system problem or not substantially caused by Licensor, including problems with the hardware, third party applications, operating systems, data, damage or matters generally beyond the control of Licensor, such as:

(i) use or operation of the Software licensed from Licensor except in accordance with the applicable and current Licensor documentation and licensed rights,

(ii) failure of a suitable operating environment for the systems supporting the licensed Software,

(iii) errors, omissions, damages or wrongful acts by an operator, user or third-party personnel,

(iv) repairs, maintenance, alterations, relocation, copying, tampering, interfacing or other conduct not duly authorized by Licensor,

(v) operation on or in association with hardware, Software or databases not authorized by Licensor or not recommended for the licensed Software,

(vi) external causes such as without limitation, electrostatic or environmental conditions and accidents including fire, water and lightning.

**Error Investigation.** Upon receipt of notification from County of an apparent error or problem with the Software licensed from Licensor, Licensor will use commercially reasonable efforts to promptly investigate the issue and to advise the County that either an error does not exist, or confirm that one does exist as soon as reasonably possible and what, if any, work-around exists. Errors shall be deemed to be any repeatable design or programming error in the Software licensed from Licensor which prevents the licensed Software from substantially complying with the functionality as set out in the user documentation (on-line or hard-copy) delivered or provided with the Software, which error adversely affects the use, function or performance of the licensed Software. When errors are confirmed, Licensor will use commercially reasonable efforts to correct such errors and provide County with an updated version for the licensed Software as soon as it is practical in Licensor's sole discretion.

Information regarding resolution timelines and fixes should be considered as working guidelines. In many instances the timeframes indicated will yield an action plan, with interim workarounds put in place if identified until a permanent fix is available. Determining whether a request or fix is incorporated into a future release of a Licensor product is solely at the discretion of Licensor representatives.

Licensor reserves the right to make the final determination on the priority level of a support incident. Licensor may downgrade the priority of a support incident and notify the client of this action if any of the following conditions apply:

- A workaround is provided.
- Licensor support isn't able to reproduce the reported problem and the customer isn't able to support additional troubleshooting efforts through accessible persons or resources, including access to the customer's environment

Licensor will take commercially reasonable care to ensure that all Software it delivers is virus-free. Because updates are made available via the internet, Licensor cannot guarantee that updates are virus-free. As such, Licensor strongly recommends that County follows accepted best practices for the computing industry and run virus-checking procedures on any Software prior to installation.

Licensor is committed to protecting the security of County information by using a variety of security technologies and procedures to help protect County information from unauthorized access, use, or disclosure and Licensor does not use or disclose sensitive personal information without County's explicit written consent. The information needed is for corrective and preventative technical support services only and will not be transferred to third parties without County's consent. Licensor may at times utilize third party companies to provide limited services and after obtaining written County approval, may provide those companies the personal information needed to deliver the service, and they are prohibited from using that information for any other purpose. The personal information Licensor collects from County will be used by Licensor, and its third party suppliers, to 1) provide the technical support service(s) or the transaction(s) County has requested or authorized; 2) to provide critical updates and notifications regarding the pre-release Software; or 3) to improve the product or service, i.e. fixing reported product issues.

After Hours Telephone Support. In the event that a critical issue arises outside of the normal Licensor Technical Support hours (Monday – Friday, 5 AM PST - 5 PM PST), a special team of after-hours Technical Support Specialists are available for County on a current Software Subscription and Maintenance ("SSM") support plan. County acknowledges that additional fees may apply for after-hours support between the hours of 5 PM and 5AM PST Monday – Friday or anytime on Saturdays/Sundays and may be invoiced upon completion of services on a time and materials basis ("T&M") at $200.00/hour with payment due net thirty (30) days from the date of invoice.

## C. OPTIONAL SERVICES - PROFESSIONAL SERVICES

Licensor may perform mutually agreed upon configuration or customization services, including but not limited to, discovery, documentation of specifications and/or process documents, configurations, data migration, integrations, customizations, implementation services, custom reporting, quality endurance and testing, project management and classroom training herein referred to as "Professional Services" on an as needed basis throughout the term of the Agreement. All optional services performed under this contract shall be in according with Article 6 "Software Modifications", Article 10.7 "Limited Warranty and Liability – Services", Article 20 "Professional Services" and Article 22 "Statement of Work" of this Agreement.

On-site consulting activities shall be scheduled between 8:00 a.m. and 8:00 p.m. Eastern Standard Time however time must be allotted within these business hours for setup before and wrap-up after consulting meetings. Work performed beyond these hours will be billed upon completion of services on a time and materials basis with payment due net forty-five (45) days from date of Licensor's invoice.

## APPENDIX B – PRICE SCHEDULE

### A. Maintenance and Support Fee Schedule

| Description | Term | Annual Fee |
|---|---|---|
| Maintenance and Support Services - Proliance Licenses | Year 1 (07/01/14 - 09/30/15) | $243,970 |
| Maintenance and Support Services - Proliance Licenses | Year 2 (10/01/15 - 09/30/16) | $195,176* |
| Maintenance and Support Services - Proliance Licenses | Year 3 (10/01/16 - 09/30/17) | $184,904* |
| **Initial Three (3) Year Contract Term Total:** | | **$ 624,050** |

* **Pricing reflects term agreement discounted prices for Years 1, Year 2, and Year 3**

** **Payment Terms:**

1. County shall be invoiced for Term 1 (15 months) in the amount of $243,970 upon Agreement execution with payment due net forty-five (45) days from date of Contractor's invoice. This will cover the following time period – July 1, 2014 – September 30, 2015. All subsequent maintenance and support renewal periods shall commence as of October 1st.
2. County shall be invoiced for Term 2 (October 1, 2015 – September 30, 2016) in the amount of $195,176 County shall be invoiced for Term 3 (October 1, 2016 – September 30, 2017) in the amount of $184,904

### B. Optional Years to Renew (OTR) Maintenance and Support Fee Schedule

| Description | OTR Term | Annual Fee |
|---|---|---|
| Maintenance and Support Services - Proliance Licenses | Year 4 (10/01/17 - 09/30/18) | $184,904 |
| Maintenance and Support Services - Proliance Licenses | Year 5 (10/01/18 – 09/30/19) | $184,904 |
| | **OTR Total:** | **$369,808** |

### C. Optional - Additional Software

| Product Description | Unit Price |
|---|---|
| **Proliance Software** | |
| Proliance Standard Pro - Standard PPM | $ 995.00 |
| Proliance Contributor Pro -Contributor PPM | $ 195.00 |
| Proliance Pro - Platform 50 Additional | $ 125,000.00 |
| **SketchUp Pro Software*** | |
| SketchUp Pro Single User (1-4), Version 2013 | $ 495.00 |
| SketchUp Pro Single User (5-15), Version 2013 | $ 470.00 |
| SketchUp Pro Single User (16-25), Version 2013 | $ 445.00 |
| SketchUp Pro Single User (26-50), Version 2013 | $ 430.00 |
| SketchUp Pro Single User (51-75), Version 2013 | $ 415.00 |
| SketchUp Pro Single User (76-100), Version 2013 | $ 395.00 |
| SketchUp Pro Enterprise pricing, 1 yr, Network (200-1000 seats), Version 2013 | $ 50.00 |
| SketchUp Pro Enterprise pricing, 1 yr, Network (1000 - 5000 seats), Version 2013 | $ 40.00 |
| SketchUp Pro Enterprise pricing, 1 yr, Network (5000 - 100000 seats), Version 2013 | $ 30.00 |
| SketchUp Pro Enterprise pricing, 1 yr, Network (10000 - 50000 seats), Version 2013 | $ 20.00 |
| SketchUp Pro Enterprise pricing, 2 yr, Network (200-1000 seats), Version 2013 | $ 45.00 |
| SketchUp Pro Enterprise pricing, 2 yr, Network (1000 - 5000 seats), Version 2013 | $ 36.00 |
| SketchUp Pro Enterprise pricing, 2 yr, Network (5000 - 100000 seats), Version 2013 | $ 27.00 |
| SketchUp Pro Enterprise pricing, 2 yr, Network (10000 - 50000 seats), Version 2013 | $ 18.00 |
| SketchUp Pro Enterprise pricing, 3 yr, Network (200-1000 seats), Version 2013 | $ 43.00 |
| SketchUp Pro Enterprise pricing, 3 yr, Network (1000 - 5000 seats), Version 2013 | $ 34.00 |
| SketchUp Pro Enterprise pricing, 3 yr, Network (5000 - 100000 seats), Version 2013 | $ 26.00 |
| SketchUp Pro Enterprise pricing, 3 yr, Network (10000 - 50000 seats), Version 2013 | $ 17.00 |
| SketchUp Pro 2013 Network License Pack (1-9 seats), Version 2013 | $ 1,500.00 |
| SketchUp Pro 2013 Network License Pack (10-19 seats), Version 2013 | $ 1,295.00 |
| SketchUp Pro 2013 Network License Pack (20-29 seats), Version 2013 | $ 1,165.00 |

| | |
|---|---|
| SketchUp Pro 2013 Network License Pack (30-39 seats), Version 2013 | $ 1,036.00 |
| SketchUp Pro 2013 Network License Pack (40-49 seats), Version 2013 | $ 925.00 |
| SketchUp Pro 2013 Network License Pack (50-99 seats), Version 2013 | $ 840.00 |
| SketchUp Pro 2013 Network License Pack (100+ seats), Version 2013 | $ 650.00 |
| SketchUp Pro Conversion Single to Network | $ 1,000.00 |
| SketchUp Pro 2013 Additional Network Licenses, (1-9), Version 2013 | $ 1,350.00 |
| SketchUp Pro 2013 Additional Network Licenses, (10-19), Version 2013 | $ 1,145.00 |
| SketchUp Pro 2013 Additional Network Licenses, (20-29), Version 2013 | $ 1,015.00 |
| SketchUp Pro 2013 Additional Network Licenses, (30-39), Version 2013 | $ 886.00 |
| SketchUp Pro 2013 Additional Network Licenses, (40-49), Version 2013 | $ 775.00 |
| SketchUp Pro 2013 Additional Network Licenses, (50-99), Version 2013 | $ 690.00 |
| SketchUp Pro 2013 Additional Network Licenses, (100+), Version 2013 | $ 500.00 |
| **WinEst Software** | |
| WinEst Pro | $ 1,990.00 |
| WinEst Pro Plus | $ 3,990.00 |
| WinEst eTeam - Includes Enterprise Database Manager | $ 5,790.00 |
| WinEst Virtual Takeoff | $ 1,200.00 |
| Schedule Link | $ 500.00 |
| OST Interface | $ 1,000.00 |
| WinEst Enterprise Data Manager | $ 500.00 |
| **Modelogix Software** | |
| Modelogix Admin | $ 5,400.00 |
| Modelogix User | $ 2,900.00 |

* Some of the Trimble SketchUp Software is designed to be used in conjunction with Google's search and other services. Accordingly, the County's use of such Trimble SketchUp Software is also defined by Google's Terms of Service located at http://google.com/intl/en/policies/terms and Google's Privacy Policy located at http://www.google.com/intl/en/policies/privacy. None of the Trimble SketchUp Software is intended for use in the operation of nuclear facilities, life support systems, emergency communications, aircraft navigation or communication systems, air traffic control systems, or any other such activities in which case the failure of the Software could lead to death, personal injury, or severe physical or environmental damage.

***D. Optional Professional Services***

The County may make a written request for the Licensor to provide Professional Services in addition to the requirements listed in Appendix A of this Agreement. Upon receiving this request, the Licensor and the County must mutually agree to the scope of the additional services and personnel required and the hourly time and materials rates set forth below in a Statement of Work that is mutually agreed upon and executed between the parties. The below rates do not include travel-related expenses and if required shall be stated in the separate Statement of Work.

| Service Description | Rate/Hour |
|---|---|
| Configuration & Product Implementation Consultant | $200 |
| Project Manager | $200 |
| Business Consultant (Design, Configuration, and Integration Services) | $200 |
| Technical Consultant (Implementation Services) | $200 |

***CONFIGURATION & PRODUCT IMPLEMENTATION CONSULTANT***

The Implementation Consultant, as a member of the Meridian Professional Services Team, plays a key role in the success of a client's implementation of Meridian solutions. The Implementation Consultant works closely with senior members of the services team to understand client business requirements, document detailed designs, configure, test and troubleshoot Meridian products.

Duties and Responsibilities:

The Implementation Consultant will be involved in all phases of client solution deployment and will lead and participate in the following activities:

1. Analyze customer business requirements and objectives
2. Work with client and other consultants to develop client solution
3. Document business, configuration, reporting and customization requirements
4. Perform configuration of products according to approved design documents
5. Conduct product training sessions for the customer
6. Provide first level consulting and product support for clients
7. Communicate project issues that may impact the project's success
8. Provide remote and onsite operational support, problem determination and resolution
9. Provide performance input of other staff assigned to the project
10. Submit accurate weekly timesheets and expense reports
11. Participate in department/company meetings

**PROJECT MANAGER**

Duties and Responsibilities:

1. Analyze customer business requirements and application objectives.
2. Development of project implementation plan and schedule.
3. Develop system design, functional and technical specifications to meet customer functionality, customization, and Integration requirements.
4. System configuration and customization based on defined specification.
5. Assist sales team in functional and technical specification preparation for bid tendering or business proposal.
6. Project Change Management, Issue Management, Communication Plans
7. Manage all Project Resources (Consultants, contractors, etc)
8. Maintain Project within Budget and on Schedule
9. Provide Performance reviews of resource staff assigned to Projects.
10. Provide consistent reporting to Supervisor on status of Projects, Backlog, Support/Development issues, etc.
11. Submit accurate weekly timesheets and expense reports
12. Resolve Invoicing and Customer Satisfaction Issues within Projects

**BUSINESS CONSULTANT**

The Business Consultant, as a member of the Meridian Professional Services Team, plays a key role in the success of a client's implementation of Meridian solutions providing design, configuration and integration services. The Business Consultant takes a lead role on the services team to discover and define client business requirements, document designs, configure, test and troubleshoot Meridian products. The Business Consultant ensures the client tailored solution is well documented and meets the business needs of the client.

Duties and Responsibilities:

The Business Consultant will be involved in all phases of client solution deployment and will lead and participate in the following activities:

1. Analyze customer business requirements and objectives
2. Participate in the development of project implementation plan and schedule
3. Work with client and other consultants to develop system design, functional and technical specifications to meet customer functionality, reporting, customization and integration requirements.
4. Perform configuration of products according to approved design documents
5. Conduct product training sessions for the customer
6. Provide first level consulting and product support for clients
7. Communicate project issues that may impact the project's success

8. Provide remote and onsite operational support, problem determination and resolution
9. Provide performance input of other staff assigned to the project
10. Submit accurate weekly timesheets and expense reports
11. Participate in department/company meetings

**TECHNICAL CONSULTANT**
The primary role of a Technical Consultant is to implement Software solutions that meet the business objectives of our customers.

Duties and Responsibilities:
Implementing Software solutions consists of the following activities:
1. Analyzing customer business requirements
2. Provide technical consulting
3. Participating in discovery sessions
4. Participating in the technical design process
5. Ensure solutions are delivered and deployed successfully
6. Work with Project Managers to ensure proper project tracking and controls are being met (Timesheets, Estimates, Schedule)
7. Ensure all artifacts (documentation / code) is produced to Meridian standards
8. Work with support and customers to troubleshoot issues related to the implementation of custom solutions
9. Escalate issues to more senior members of the Tech Services team when appropriate.
10. Research and develop skills in new technologies as directed by the Technical Services Manager.

**TRAINING COURSES**

| *(Includes all training materials but does not include Travel-related expenses. These expenses will be invoiced in compliance with Florida Statute requirements on reimbursement for travel-related expenses.)* | **Cost** |
|---|---|
| Daily Training – Maximum 8 students per class | $3,000 |
| Group Training – Per student, per day | $500 |
| Online Training – Per student per class | $400 |

**STANDARD PROLIANCE® COURSES**
The education experts at Meridian Systems have designed the following courses to provide comprehensive knowledge of Proliance. You may schedule these courses as they're described here or you may choose to custom-design a program to focus on specific Proliance business applications. Detailed descriptions of the modules within each of these courses follow in this catalog.

**1. Foundations**
This 2-day course provides users with the foundation upon which other courses will build. We recommend that you always include this course in your education program to ensure that your users have all of the basics regarding how to use Proliance.

| | |
|---|---|
| **Audience:** | • Anyone who will be using Proliance |
| **Knowledge to Leverage:** | • Using Proliance to support Business Process Management (BPM)<br>• Taking advantage of the powerful Proliance Workflow Engine |
| **Tools to Use:** | • Communication, Reporting, Views &Creating new Programs & Projects |

This 2-day course provides users with the foundation upon which other courses will build. It is recommended that this course is always included in your education program to ensure that your users have all of the basics regarding how to use Proliance. This does not apply to Proliance Intensive.

| DAY | FOUNDATIONS COURSE TOPICS |
|---|---|
| 1 | **Introduction to Proliance**<br>Learners will gain a basic understanding of what Proliance is and how it is structured. After this course, the trainee will be able to envision how Proliance may be used in his/her organization and how it will increase efficiency in the work they typically do on a project. |
| 1 | **Proliance Workflow & Business Process Management (BPM)**<br>Attendees will gain a foundation of knowledge regarding Business Process Management and Workflow so that as they move onto more detailed, feature-specific training, they will understand how Proliance supports BPM, and they will have a frame of reference for workflow concepts. Users will learn about Proliance workflow, both conceptually and in a very hands-on sense through an enactment of an actual workflow process. |
| 1 | **Navigating Proliance with Confidence** Attendees will learn how Proliance workspaces are organized, about Organizations, Programs and Projects and will see helpful tips and tricks to make their Proliance experience faster, easier, and more productive. |
| 1 | **Effective Proliance Project Communication** Attendees will learn how notices are used in Proliance to inform users of updates or actions needed on a project. They will also learn how to best utilize the various Notices views and how to set up Email Notification for even more convenient access to Proliance data. |
| 1 | **Proliance Reports & Views** Attendees will learn how to tailor views of document Registers to show the information they want most as well as learn how to create ad hoc reports from documents or registers. |
| 2 | **Contact & User Administration** Attendees will learn how to setup new contacts, staff, and company information. They will be able to not only enter basic contact information but also setup a user account allowing others access to Proliance, and be able to setup roles and security permissions. |
| 2 | **Overview of Security and User Accounts** Attendees will learn how security roles and user accounts control which documents and workspaces users can view or take action upon. |
| 2 | **Creating and Managing Projects & Programs** Attendees learn how templates are used behind the scenes to create projects and standard documents for use in projects, as well as how to create new projects, assign contacts and staff to a project, and create Project Summaries. Attendees will also learn how to use Programs to better organize their projects and to allow faster ramp-up on future projects. |

### 3. Business Applications

This course provides deep functional understanding of Proliance through demonstration, discussion and hands-on practice applying real-life scenarios to the use of the Proliance business applications. Course length ranges from 3-5 days depending on which applications you are utilizing.

| | |
|---|---|
| **Audience:** | • Users of Proliance (modular design allows users to attend just the sections most relevant to their jobs)<br>• Proliance support staff and system administrators |
| **Knowledge to Leverage:** | • How Proliance documents will support your business processes and interrelate with each other<br>• Ability to make decisions on how to best utilize Proliance functionality |
| **Tools to Use:** | • Practical understanding of how to use Proliance Contracts, Drawings, Correspondence, Invoices, Cost Reporting and other features. |

| DAY | BUSINESS APPLICATIONS COURSE TOPICS |
|---|---|
| | **Office Management** |
| 1 | **Correspondence**<br>Correspondence documents are used to track correspondence such as verbal conversations, emails, faxes, and letters. They provide an audit trail of information and the ability to have an archived copy of information that was recorded. |
| 1 | **Meeting Minutes**<br>You can use Meeting Minutes to record meeting details such as attendees, topics, action items, and status. You can also create Meeting Sets to save time entering recurring meetings, and carry over unfinished business from previous meetings in a set. |
| 1 | **Managing & Tracking Requests for Information (RFIs)**<br>Attendees will learn all of the basics of creating RFIs, updating them, and typical workflow processes associated with them. In addition, they will also learn how RFIs can be grouped together in "RFI Issues" and how RFIs may interrelate with other documents, such as quotes or change orders. |
| 1 | **File Management: Using Catalog Cards**<br>This unit shows how Catalog Cards are used to manage external files, such as photos, spreadsheets, and document files. Users will learn how they can upload files to the File Management Server individually and as a batch. |

| | |
|---|---|
| 1 | **Managing & Tracking Submittals**<br>This quick unit shows attendees how to create and update submittal documents and to group those documents into packages. Includes discussion of key uses for these documents and typical workflow processes. |
| 1 | **Managing Drawings and Using View & Redline**<br>This unit provides understanding of the power behind Proliance drawing management – attendees will learn not only how to upload and track drawings and related workflow, but will also see how specific review steps can be defined for drawings, how drawings are grouped into packages, and how to use the integrated view and redline tool to mark-up drawing files from various programs. |
| 1 | **Using Transmittals to Manage Drawings** T<br>This unit shows how to use Transmittals to manage drawings, drawing revisions, and the review process. Attendees will learn how to create transmittals, add drawing documents, define the review steps, and assign reviewers. It also provides information on the different reporting options for transmittals. |
| | **Management Plans** |
| 2 | **Defining Management Plans** |
| | Attendees will learn how management plans are used to establish processes for procedures that do not fit into an established Proliance business application or document. They will be able to define the forms, templates and plans to create a management plan. |
| | **Field Management** |
| 2 | **Daily Work Journals & Deficiency Lists**<br>This section provides practical tips and tricks on how to use the tracking tools available from Proliance that will keep on-site work rolling and provide audit trails. Includes demonstration and hands-on practice with Daily Work Journals and Deficiency Lists (Punch Lists). |
| | **Scheduling Management** |
| 2 | **Introduction to Scheduling Application**<br>In this unit, attendees will be introduced to Scheduling Application views, components, and available functionality for task and resource management of the project. For in-depth knowledge of the Proliance Scheduling, how to configure schedule templates and what are the best practices of using Scheduling to manager your projects tasks and resources, please sign up for the full 8 hours Proliance Scheduling course. |
| | **Budget & Cost Management (BCM)** |
| 3 | **BCM: Budget & Cost Documents and the ACR**<br>In this section, attendees learn about the features that are at the heart of Budget & Cost Management. Attendees will learn how to use:<br>• Scope documents to record budget and planned spending<br>• Cost Accounts for budgeting and cost forecasts, and group and filter expense & revenue amounts<br>• Transfer documents to move money between Cost Accounts<br>• Cashflow documents to provide feedback to project participants<br>• The Anticipated Cost Report (ACR) for solid project finance planning through its summarization of a project's budget, costs, billings, and invoice information |
| | **Contract Management** |
| 4 | **Creating and Managing Contracts**<br>In this unit, attendees will learn about the different types of contracts available in Proliance (Revenue or Expense, Pre-Commit or Auto-Commit), and how to use Proliance to ensure proper approval and updating of contract information. Includes strategies on when to use the various types of contracts and how to effectively manage changes through Change Orders and Cost Events. |
| 4 | **Effectively Utilizing Instructions & Quotes**<br>This unit provides guidance on how to use instructions to ensure that changes are processed correctly and how to use Proliance Quote documents to structure required information. |
| 4 | **Managing Change with Cost Events and Change Orders**<br>In this section, attendees will learn how to use Cost Events to initiate and review changes to contracts. They will use Cost Events to create Change Orders to approve and finalize the changes. |
| 4 | **Managing Invoices and Payments**<br>Attendees will learn how to utilize invoices to track expenses and revenues. They will learn how payment logs can be used to track actual payments made by their company using an external accounting system. |

## 4. Proliance Administrator

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| Technical staff will learn how to implement & support Proliance in this 2-3 day course (length of the course depends on participants' existing knowledge level of Proliance). | • Users of Proliance (modular design allows users to attend just the sections most relevant to their jobs<br>• Proliance support staff and system administrators |
| **Knowledge to Leverage:** | • Shaping the initial Proliance implementation<br>• Tailoring Proliance to your company's requirements |
| **Tools to Use:** | • Program and Project Templates<br>• Configuration tool for field requirements, names, related lookups<br>• Settings for user accounts, security roles and permissions Workflow configuration for Proliance documents |

| *DAY* | *CONFIGURATION & SUPPORT COURSE TOPICS* |
|---|---|
| | **Overview** |
| 1 | **Proliance Overview**<br>After this unit, attendees will understand how Proliance services and applications are organized, how databases are typically structured, and have a foundation for diving into the details of Proliance. They will also learn about login options, Proliance workspaces, and basic navigation. Attendees will gain a solid understanding of what Business Process Management is and how Proliance supports it. They will learn how the Proliance workflow engine can be utilized to improve processes, where workflow manifests itself in the configuration tool, and the class will define some realistic workflow processes based on company policies and procedures. |
| 1 | **Proliance Architecture Overview and Configuration Tools**<br>This section provides an overview of the Proliance configuration tools and when you should utilize each one, Proliance architecture, and integration options. In the Xdocs and Data Structure module, administrators gain the foundation they will need to understand Proliance Xdocs as well as the document models that define all documents and fields. |
| 1 | **Review of Security Roles and Categories**<br>Attendees will review Security Roles and Categories covered in the Foundations class to gain a better understanding of how security is related to configuration. |
| 2 | **Cost-Related Configuration Settings**<br>Attendees will learn about Cost Account Grouping Codes, Cost and Internal Periods, Limits of Authority and Holds are used in Proliance during configuration. They will work with each and setting and/or document to see the impact on workflow, tracking, and reporting. |
| | **Local Administration Configuration Tool** |
| 2 | **Configuration Setup: First Steps**<br>After a quick review of the overall steps for configuring Proliance, attendees will learn via hands-on practice what the first steps are for configuring a new Proliance installation, including defining the File Management Server (FMS), mark-up directory, and the creation of an Organization account and an administrative user. |
| 2 | **Creating and Modifying Templates**<br>After this unit, attendees will understand what templates need to be created for a successful implementation and will know exactly how to create Organization, Program, Project, and Document templates. |
| 2 | **Configuring Document Templates and Workflow**<br>In this section, attendees will make the workflow defined in the previous section come to life by configuring workflow for a specific document. After configuration, users will have the opportunity to view the document from the user perspective and see the notices and state changes generated by that workflow template. |
| 2 | **Setting Field Attributes**<br>During a hands-on exercise to create the various templates and define workflow for a specific document, attendees will learn how to take advantage of the flexibility in Proliance to configure field settings to match their company's needs. Topics covered include setting default values, marking fields as required, showing or hiding fields, and setting editing permissions at the field level. |
| | **Resource Editor** |
| 3 | **Tailoring Field Nomenclature**<br>Attendees will learn how to create custom cultures to fit company lingo or to adapt for use in other countries. They will use Resource Editor to identify and modify Proliance fields for the custom culture. |

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| | **Lookup Editor** |
| 3 | **Lookup List Configuration**<br>To ensure consistent use of company terminology and improve reporting, Proliance offers the ability to create lookup lists tailored to your organization. This unit describes how to create those lists. |
| | **Troubleshooting & Support** |
| 3 | **Installing Service Packs**<br>Learn how to efficiently install Proliance upgrades and service packs. |
| 3 | **Troubleshooting Tips & Resources**<br>Hear about the most frequently asked questions from users and learn about the resources available to you to assist you in supporting your users. |

### 5. Proliance Intensive ("Boot Camp")

Power users and implementation team members will learn about Proliance applications and an overview of configuration and support in this 5-day course. It is an overview of Foundations and Business Applications curriculum. It is intended for people who will be designated "Power Users" of the Proliance system or are participating in making decisions regarding configuration and implementation.

### 6. Proliance Scheduling

This session teaches technical staffs how to design Schedule Templates, Scheduling Views and Reporting to best customize the Proliance Scheduling capabilities to manage tasks and resources in projects.

| | |
|---|---|
| **Audience:** | • Technical staff<br>• Proliance administrators<br>• Power Users |
| **Knowledge to Leverage:** | • Use of Gantt Views<br>• Tasks and Resources Management<br>• Critical Path Analysis<br>• Baselines |
| **Tools to Use:** | • Scheduling Configuration Components<br>• Scheduling Templates<br>• Scheduling Views, Reporting, and Exporting Options |
| ***8 HRS*** | In this course, attendees will create a new project schedule and explore the various settings that help them track vital project information. Attendees will also learn about resources, including how to assign resources to a project, record expected hours, and other pertinent information regarding resources. In the reporting section of this unit, all of the methods for extracting information from a project are covered, including configuring custom on-screen views and available reports. Attendees will then learn about how Proliance Scheduling can help keep projects on task and the best practices for utilizing the Proliance Scheduling Application through baselines, critical path analysis, and project status date. |

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## APPENDIX C – Trimble SketchUp API Terms of Use

Thank you for using Trimble's SketchUp APIs. These APIs are provided by Trimble Navigation Limited (referred to as Trimble, we, our, or us in these terms), located at 935 Stewart Drive, Sunnyvale, California 94085, United States. These terms outline your rights and responsibilities when using our APIs, so read them carefully. Additional terms may apply to the use of an API, including additional terms of service, terms within the accompanying API documentation, and any applicable policies or guidelines. If there is a conflict between these terms and the additional terms, the additional terms apply for that conflict. If you use the APIs as an interface to, or in conjunction with other Trimble products and services, then the terms for such products and services also apply.

### SECTION 1: ACCOUNT AND REGISTRATION

Accepting the Terms. You may not use the APIs and may not accept the Terms if (a) you are not of legal age to form a binding contract with Trimble, or (b) you are a person barred from using or receiving the APIs under the applicable laws of the United States or other countries including the country in which you are resident or from which you use the APIs. Google Account. You may need to create a Google account in order to use an API or a Google account may be assigned to you by an administrator, such as your employer or educational institution. If you are using a Google account assigned to you by an administrator, your legal relationship with your administrator may affect that account. It's your responsibility to keep your password, account credentials, and accounts secure. If you learn of any unauthorized use of your account, follow the instructions at http://www.google.com/support/accounts/bin/answer.py?answer=58585.

Registration. In order to access certain APIs you may be required to provide certain information (such as identification or contact details) as part of the registration process for the APIs, or as part of your continued use of the APIs. You agree that any registration information you give to Trimble will always be accurate and up to date.

Subsidiaries and Affiliates. Trimble has subsidiaries and affiliated legal entities around the world. You agree that these companies may provide the APIs to you on behalf of Trimble and these terms will also govern your relationship with these companies.

### SECTION 2: USING OUR APIS

Your End Users. You will require your end users to comply with any applicable law and these terms. You will not knowingly enable your end users to violate applicable law or these terms.

Compliance with Law. You will use our APIs only as permitted by law (including without limitation laws regarding the import or export of data or software, privacy or local laws). You will not use the APIs to encourage or promote illegal activity.

Permitted Access. You will only access (or attempt to access) an API by the means described in the documentation of that API. If Trimble assigns you developer credentials or Client IDs, you must use them with the applicable APIs. You will not misrepresent or mask either your identity or your API Client's identity when using the APIs or developer accounts.

API Limitations. Trimble may set limits on the number of API requests that you can make, at its sole discretion. You agree to such limitations and will not attempt to circumvent such limitations.

Open Source Software. Some of the software required by or included in our APIs may be offered under an open source license. There may be provisions in the open source license that expressly override some of these terms, and in those cases, the overriding provisions apply.

Monitoring. Trimble may monitor the use of the APIs to ensure quality, improve Trimble products and services, and verify your compliance with these terms. You will not interfere with such monitoring. Trimble may use any technical means to overcome such interference.

Communication with Trimble. You agree that we may send you certain communications in connection with your use of the APIs. Please review the applicable API documentation for information about opting out of certain types of communication.

Feedback. If you provide feedback or suggestions about our APIs, then we may use such information without obligation to you.

**SECTION 3: YOUR API CLIENTS**

API Clients. The APIs are designed to help you enhance your websites and applications (API Client(s)). Trimble reserves the right to investigate any API Client for compliance with these terms. Such investigations may include Trimble accessing and using your API Client, for example to identify security issues that could affect Trimble or its users. You consent to any such investigation. Trimble may suspend access to our APIs by you or your API Client without notice if we reasonably believe that you are in violation of these terms.

Security. You will use commercially reasonable efforts to protect user information collected by your API Client, including personally identifiable information (PII), from unauthorized access or use and will promptly report to your users any unauthorized access or use of such information.

Ownership. Trimble does not acquire ownership in your API Clients, and by using our APIs, you do not acquire ownership of any rights in our APIs or the content that is accessed through our APIs.

User Privacy and API Clients. You will comply with all privacy laws and regulations including those applying to PII. You will provide and adhere to a privacy policy for your API Client that clearly and accurately describes to users of your API Client what user information you collect (such as PII, login information and, if applicable, Trimble or Google account data) and how you use and share such information (including for advertising) with Trimble and third parties. If your privacy policy is used to comply with the EU Data Protection Directive, then it must adhere to the US Safe Harbor principles of Notice, Choice, Onward Transfer, Security, Data Integrity, and Access at http://www.export.gov/safeharbor/eu/eg_main_018475.asp.

**SECTION 4: PROHIBITIONS**

API Prohibitions. When using the APIs, the following prohibitions apply:
1. You will not sublicense an API for use by a third party. Consequently, you will not create an API Client that functions substantially the same as the APIs and offer it for use by third parties.

2. You will not perform an action with the intent of introducing to Trimble products and services any viruses, worms, defects, Trojan horses, malware or any items of a destructive nature.

3. You will not defame, abuse, harass, stalk or threaten others.

4. You will not interfere with or disrupt the APIs or the servers or networks providing the APIs.

5. You will not promote or facilitate unlawful online gambling or disruptive commercial messages or advertisements.

6. You will not reverse engineer or attempt to extract the source code from any API or any related software, except to the extent that this restriction is expressly prohibited by applicable law.

7. Certain developer credentials are, by their nature, considered confidential. You will not disclose such confidential credentials to any third party except your agent(s) using such information solely on your behalf in accordance with these terms and under a written duty of confidentiality.

8. Our communications to you may contain Trimble confidential information. If you receive any materials or communications that are clearly confidential or marked confidential, then you will not disclose the Trimble confidential information to any third party without Trimble's prior written consent.

**SECTION 5: CONTENT**

Content Accessible Through our APIs. Our APIs contain some third party content (such as text, images, videos, audio, or software). This content is the sole responsibility of the person that makes it available. We may sometimes review content to determine whether it is illegal or violates our policies, and we may remove or refuse to display content. Finally, content accessible through our APIs may be subject to intellectual property rights, and, if so, you may not use it unless you are licensed to do so by the owner of that content or are otherwise permitted by law. Your access to the content provided by the API may be restricted, limited, or filtered in accordance with local laws, regulations, and policies.

Submission of Content. Some of our APIs allow the submission of content, and except as expressly provided in these terms, Trimble does not acquire any ownership of any intellectual property rights that you or your end users hold in the content that you submit to our APIs through your API Client. By submitting, posting or displaying content to or from the APIs through your API Client, you give Trimble a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive license to reproduce, adapt, modify, translate, publish, publicly perform, publicly display and distribute such content. However, Trimble will only use such content for the purpose of enabling Trimble to provide the APIs and only in accordance with the applicable Trimble privacy policies. You agree that this license includes a right for Trimble to make such content available to other companies, organizations or individuals with whom Trimble has relationships for the provision of services, and to use such content in connection with the provision of those services. Before you submit content to our APIs through your API Client, ensure that you have the necessary rights (including the necessary rights from your end users) to grant us the license.

Retrieval of content. When a user's non-public content is obtained through the APIs, you may not expose that content to other users or to third parties without explicit opt-in consent from that user.

Data Portability. Trimble supports data portability. By accessing users' data through the APIs for use in any of your services or applications, you agree to enable your users of any such service or application to export their equivalent data to other services or applications of their choice in a way that's substantially as fast and easy as exporting such data from Trimble products and services, subject to applicable laws.

Prohibitions on Content. Unless expressly permitted by the content owner or by applicable law, you agree that you will not, and will not permit your end users to, do the following with content returned from the APIs:

1. Scrape, build databases or otherwise create permanent copies of such content, or keep cached copies longer than permitted by the cache header;
2. Copy, translate, modify, create a derivative work of, sell, lease, lend, convey, distribute, publicly display or sublicense to any third party;
3. Misrepresent the source or ownership; or
4. Remove, obscure, or alter any copyright, trademark or other proprietary rights notices, falsify or delete any author attributions, legal notices or other labels of the origin or source of material.

**SECTION 6: BRAND FEATURES; ATTRIBUTION**

Brand Features. "Brand Features" is defined as the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each party. Except where expressly stated, these terms do not grant either party any right, title, or interest in or to the other party's Brand Features. All use by you of Trimble's Brand Features (including any goodwill associated therewith) will inure to the benefit of Trimble.

Attribution. You agree to display any attribution(s) required by Trimble as described in the documentation for the API. Trimble hereby grants to you a nontransferable, nonsublicenseable, nonexclusive license during the term to display Trimble's Brand Features for the purpose of promoting or advertising that you use the APIs. You must only use the Trimble Brand Features in accordance with these terms and for the purpose of fulfilling your

obligations under this Section. In using Trimble's Brand Features, you must follow the Trimble Brand Features Use Guidelines (http://www.trimble.com/copyrights.aspx). You understand and agree that Trimble has the sole discretion to determine whether your attribution(s) and use of Trimble's Brand Features are in accordance with the above requirements and guidelines.

Publicity. You will not make any statement regarding your use of an API which suggests partnership with, sponsorship by or endorsement by Trimble without Trimble's prior written approval.

Promotional and Marketing Use. In the course of promoting, marketing, or demonstrating the APIs you are using and the associated Trimble products, Trimble may produce and distribute incidental depictions, including screenshots, video, or other content from your API Client, and may use your company or product name. You grant us all necessary rights for the above purposes.

**SECTION 7: PRIVACY AND COPYRIGHT PROTECTION**

Trimble Privacy Policies. By using our APIs, you agree that Trimble can use submitted information in accordance with our privacy policies, such as http://www.trimble.com/privacy.aspxTrimble

DMCA Policy. We provide information to help copyright holders manage their intellectual property online, but we can't determine whether something is being used legally or not without their input. We respond to notices of alleged copyright infringement and terminate accounts of repeat infringers according to the process set out in the U.S. Digital Millennium Copyright Act.

**SECTION 8: TERMINATION**

Termination. You may stop using our APIs at any time. If you want to terminate these terms, you must provide Trimble with 7 days prior written notice and upon termination, cease your use of the applicable APIs. Trimble reserves the right to terminate these terms or discontinue the APIs or any portion or feature for any reason and at any time without liability or other obligation to you.

Your Obligations Post-Termination. Upon any termination of these terms or discontinuation of your access to an API, you will immediately stop using the API, cease all use of the Trimble Brand Features, and delete any cached or stored content that was permitted by the cache header under Section 5. Trimble may independently communicate with any account owner whose account(s) are associated with your API Client and developer credentials to provide notice of the termination of your right to use an API.

Surviving Provisions. When these terms come to an end, those terms that by their nature are intended to continue indefinitely will continue to apply, including but not limited to: Sections 8, 9, and 10.

**SECTION 9: LIABILITY FOR OUR APIs**

WARRANTIES. NEITHER TRIMBLE NOR ITS SUPPLIERS OR DISTRIBUTORS MAKE ANY SPECIFIC PROMISES ABOUT THE APIS. FOR EXAMPLE, WE DON'T MAKE ANY COMMITMENTS ABOUT THE QUALITY OF THE APIS OR THE CONTENT ACCESSED THROUGH THE APIS, THEIR RELIABILITY, AVAILABILITY OR ABILITY TO MEET YOUR NEEDS. THE APIS AND CONTENT ACCESSED THROUGH THE APIS ARE PROVIDED "AS IS". SOME JURISDICTIONS PROVIDE FOR CERTAIN WARRANTIES, LIKE THE IMPLIED WARRANTY OF THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. TO THE EXTENT PERMITTED BY LAW, WE EXCLUDE ALL IMPLIED WARRANTIES.

LIMITATION OF LIABILITY. WHEN PERMITTED BY LAW, TRIMBLE, AND TRIMBLE'S SUPPLIERS AND DISTRIBUTORS, WILL NOT BE RESPONSIBLE FOR LOST PROFITS, REVENUES, OR DATA, FINANCIAL LOSSES OR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES. TO THE EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF TRIMBLE, AND ITS SUPPLIERS AND DISTRIBUTORS, FOR ANY CLAIM UNDER THESE TERMS, INCLUDING FOR ANY WARRANTIES THAT MAY NOT LEGALLY BE EXCLUDED, IS LIMITED TO THE AMOUNT YOU PAID US TO USE THE APIS (OR, IF WE CHOOSE, TO SUPPLYING YOU THE APIS AGAIN) DURING THE SIX MONTHS PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY. NOTHING IN THESE TERMS LIMITS YOUR RESPONSIBILITY

FOR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. IN ALL CASES, TRIMBLE, AND ITS SUPPLIERS AND DISTRIBUTORS, WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE THAT IS NOT REASONABLY FORESEEABLE.

Indemnification. You agree to hold harmless and indemnify Trimble, and its subsidiaries, affiliates, officers, agents, and employees, or partners, from and against any third party claim arising from or in any way related to:

1. your misuse or your end user's misuse of the APIs; or
2. your violation or your end user's violation of these terms, including any liability or expense arising from all claims, losses, damages (actual and consequential), suits, judgments, litigation costs and attorneys' fees, of every kind and nature. In such a case, Trimble will provide you with written notice of such claim, suit or action.

**SECTION 10: GENERAL PROVISIONS**

Modification. We may modify these terms or any additional terms that apply to an API occasionally, for example, to reflect changes to the law or changes to our APIs. We'll post notice of modifications to these terms or the additional terms within the documentation of each applicable API. Changes are effective seven (7) days after they are posted. However, changes specific to new functionality for an API or changes made for legal reasons will be effective immediately. You agree that your continued use of the API constitutes an acceptance of the modified terms.

General Legal Terms. These terms control the relationship between Trimble and you. They do not create any third party beneficiary rights. If you do not comply with these terms, and Trimble does not take action right away, this does not mean that Trimble is giving up any rights that it may have (such as taking action in the future). If it turns out that a particular term is not enforceable, this will not affect any other terms. The laws of California, U.S.A., excluding California's choice of law rules, will apply to any disputes arising out of or related to these terms or the services. ALL CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS OR THE SERVICES WILL BE LITIGATED EXCLUSIVELY IN THE FEDERAL OR STATE COURTS OF SANTA CLARA COUNTY, CALIFORNIA, USA, AND YOU AND TRIMBLE CONSENT TO PERSONAL JURISDICTION IN THOSE COURTS.