

CONTRACT
SOFTWARE MAINTENANCE AGREEMENT

by and between

CUYAHOGA COUNTY, OHIO

and

SERENA SOFTWARE, INC.

THIS AGREEMENT (the "Contract") is made and entered into this 24th day of June, 2011, by and between Cuyahoga County, Ohio ("the County"), on behalf of the Information Services Center and Serena Software, Inc. ("Serena"), a Delaware Corporation with offices located at 1900 Seaport Boulevard, 2nd Floor, Redwood City, CA 94063.

WHEREAS, the County has a present need for renewal of software maintenance service of "ChangeMan ZMF with DB2 and IMS Options Software Products Package" at the Information Services Center; and

WHEREAS, Serena is the Licensor and thus the sole source for providing maintenance service for Serena's "ChangeMan ZMF with DB2 and IMS Options Software Products Package"; and

WHEREAS, the County desires to avail itself of the services contained herein and in the Serena Renewal Notice 20136622 attached hereto and incorporated by reference ("Schedule A") for Serena's "ChangeMan ZMF with DB2 and IMS Options Software Products" located at the Cuyahoga County Information Services Center and Serena is willing to provide such service to the County all upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Serena and the County agree as follows:

ARTICLE I – AGREEMENT AND TERM

1.1 **Scope of Agreement.** During the term of this Contract, Serena shall provide the County with all generally available Maintenance and Enhancements for the Group 40 License of "ChangeMan ZMF with DB2 and IMS Options Software Products, as outlined in Schedule A. In the event that a discrepancy exists between the terms of Schedule A and this agreement, the terms of this agreement will be controlling and binding.

Customer Support Service falls into three core areas:

1.) Answerline: 24x7 access to telephone support provided by Serena technical and product experts.

2.) Software Product Updates: Access to new product releases when they become generally available, plus patches, fixes and service packs made exclusively for Serena products.

3.) Customer Support Online: Online self-support service via the web, which includes case reporting and tracking, access to Serena's comprehensive knowledgebase, online samples, downloadable tools and more.

1.2 Term. The term of this Contract shall commence as of March 15, 2011; and, unless earlier terminated in accordance with the provisions of this Contract, shall continue in effect for a period of one year from commencement date. (3/15/11 – 3/14/12). The cost of this Contract shall not exceed **Sixty Thousand Four Hundred Eighty Two Dollars and Sixteen Cents (\$60,482.16)**

ARTICLE II – ADDITIONAL MAINTENANCE SERVICE

2.1 At the request of the County and upon Serena's prior written consent, , Serena may also provide technical, operational or other assistance on consulting to the County in excess of the scope of service included as Additional Maintenance Services. Additional Maintenance Services would require an amendment to this contract.

ARTICLE III – PAYMENT AND INVOICING

3.1 Payment. During the term of this contract the County shall pay Serena for services rendered under the terms of the agreement and any schedules attached hereto. Payment is due in full within thirty (30) days from the date of approval by the County Executive.

3.2 Invoicing. Serena shall invoice the County for Maintenance Service. Serena shall submit original invoice(s) to the following address:

Cuyahoga County Information Services Center
Business Department
1255 Euclid Avenue, 4th floor
Cleveland, Ohio 44115

ARTICLE IV - INDEMNITIES AND LIABILITIES

4.1 Subcontracting. This Contract was awarded to Serena based upon Serena's unique qualifications and skills, and no task required to be performed under this contract by Serena shall be subcontracted to third parties without the express written consent of Cuyahoga County.

4.2 Indemnification. Serena shall agree to release, indemnify and to hold harmless Cuyahoga County and any and all officers, agents, servants or employees thereof, from any and all responsibility or liability for its gross negligence or willful

misconduct under this contract, and Serena's liability under this Contract shall be limited to the maintenance fees paid by the County giving rise to the claim.

ARTICLE V – ADHERENCE TO ELECTRONIC SIGNATURE POLICY OF COUNTY

5.1 By entering into this Contract, Serena, its officers, employees, subcontractors, sub-grantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring county signatures may be executed by electronic means, and that the electronic signatures affixed by Cuyahoga County to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document.

5.2 Serena further agrees to be bound by the provisions of Chapter 304 and 1306 of the Ohio Revised Code as they pertain to Electronic Transactions and to comply with the electronic signature policy of Cuyahoga County.

ARTICLE VI – MISCELLANEOUS

6.1 Notices. Wherever one party is required or permitted to give notice to the other pursuant to this Contract, such notice shall be deemed given when delivered by hand, via certified mail with return receipt requested, via overnight courier with signature required, and addressed as follows:

In the case of the County:

Cuyahoga County Information Services Center
ATTN: Jeff Mowry
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

In the case of Serena:

Serena Software Inc.
1900 Seaport Boulevard, 2nd Floor
Redwood City, CA 94063

Either party may from time to time change its designated recipient or address for notification purposes by giving the other party written notice of the new designated recipient or address and the date upon which it will become effective.

6.2 Record Audit Retention. Serena agrees to make all pertinent contractual books and records and other documents pertaining to this Contract available to the County and its designated agents for purpose of audit and examination upon reasonable request during the term

of this Contract and for a period of two (2) years from the expiration date or final payment under this Contract, whichever is later; provided however, that should SERENA be notified that an audit has been commenced pursuant to Ohio Revised Code Sec. 117.11 during said period, for which the aforesaid books and records are material, the aforesaid records shall be retained pending the completion of said audit.

6.3 Headings and Interpretation. The article and section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof.

6.4 Governing Law. This Contract shall be subject to interpretation under the laws of the State of Ohio.

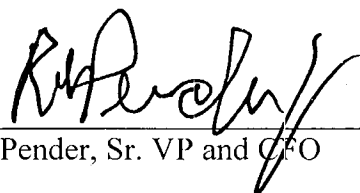
6.5 Contract Processing. Serena shall submit one (1) original contractual agreement with original signatures to the following:

Cuyahoga County Information Services Center
ATTN: Business Department
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

THIS AGREEMENT shall be subject to interpretation under the laws of the State of Ohio, and is subject to the review of the County Prosecutor's Office as to legal form and correctness.

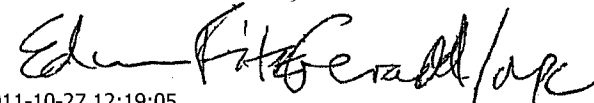
IN WITNESS WHEREOF, THE County and Serena have each caused this Contract to be signed and delivered by its duly authorized representative as of the date first written.

SERENA SOFTWARE, INC.

BY: 
Bob Pender, Sr. VP and CFO

CUYAHOGA COUNTY, OHIO

Edward FitzGerald, County Executive

BY: 
2011-10-27 12:19:05
Edward FitzGerald, County Executive

Fed. TIN# 