

CONTRACT

by and between

The County of Cuyahoga, Ohio

And

OneLink Technical Services, LLC

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and

OneLink Technical Services, LLC

THIS CONTRACT (the "Contract"), is made and entered into by and between the County of Cuyahoga, Ohio (the "County"), on behalf of the Cuyahoga County Information Services Center (also referred to herein as "CCISC"), and OneLink Technical Services, LLC an Ohio corporation (also referred to herein as "OneLink"), with principal offices at 875 Westpoint Parkway, Suite 500, Westlake, OH 44145, and shall become binding upon its signing by the Cuyahoga County Executive (the "Effective Date").

WITNESSETH

WHEREAS, Hyland Software, Inc. ("Hyland") has entered into contract with the State of Ohio to provide various information services, software, and hardware in accordance with State Term Schedule number 533272-3 (the "State Term Contract"), a copy of which is attached hereto as Attachment "A"; and

WHEREAS, Hyland's "OnBase" software is available through OneLink, and OneLink, in accordance with Ohio Revised Code Section 125.04(C), has agreed to provide OnBase and all related installation, maintenance and support services to the County on the same terms as the State Term Contract; and

WHEREAS, OnBase and the services to be provided by OneLink meet the requirements of the Cuyahoga County Clerk of the Board; and

WHEREAS, the County desires to avail itself of the purchase of Hyland's OnBase software licenses, installation and maintenance through OneLink in accordance with the State Term Contract and as further set forth herein.

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

ARTICLE I – AGREEMENT AND TERM

1.1 Scope of Agreement. During the term of this Contract, OneLink shall provide the County with all professional services necessary to complete the project as outlined in the Statement of Work attached hereto as Schedule A.

1.2 Term. The term of this Contract shall commence as of November 1, 2011 (the “Commencement Date”) and, unless earlier terminated in accordance with the provisions hereof, shall continue for the period of 14 months from the Commencement Date.

ARTICLE II - SCOPE OF WORK

2.1 Rendering of Services. OneLink Technical Services hereby agrees to render the services identified in Article 1.1 and the Statement of Work, at a **total price which shall in no event exceed the amount of TWO HUNDRED SEVENTY-THREE THOUSAND THIRTEEN DOLLARS and TWENTY-FOUR CENTS \$273,013.24.**

2.2 Compliance with Digital Imaging and Electronic Record Standards. OneLink is aware that the software contemplated under this Agreement will be used to electronically sign documents and to electronically store data previously stored on paper; and OneLink represents and warrants that the proposed system will comply with all applicable laws pertaining to the services provided hereunder, including but not limited to the Cuyahoga County Security Procedure and Policy Regarding the Use of Electronic Sign-offs and Digital Signatures and any amendments or revisions thereto.

2.3 No Unauthorized Code. OneLink represents and warrants that the Software (defined below) does not contain, and OneLink shall not otherwise include or use in the Software, any mechanisms such as a disabling code, trap door, time bomb, logic bomb or any other software protection routine or other similar device, module or functionality that would enable OneLink to terminate or disable access to, or any functionality of, the Software for any reason (“Unauthorized Code”). Provided that County notifies OneLink, or OneLink becomes aware, of the presence of any Unauthorized Code in the Software, OneLink shall promptly repair or replace the Software containing the Unauthorized Code. OneLink acknowledges that the restrictions set forth in this Section 2.3 are reasonable and necessary and that, in the event of a threatened or actual breach of this section that would materially disrupt the County’s ability to use the Software for its intended purpose, monetary damages may be difficult to ascertain such that the County shall be entitled to interim restraints and permanent injunctive and other equitable relief without alleging or proving the amount or inadequacy of monetary damages as a remedy or the exhaustion of other available remedies.

ARTICLE III - PAYMENT AND INVOICING

3.1 Payment. During the term of this Contract, the County shall pay for the Goods and Services provided to, or delivered to, Cuyahoga County in accordance with the Payment Schedule set forth in the attached Schedule B.

3.2 Invoicing. OneLink shall invoice the County for Goods and Services provided hereunder. Each OneLink invoice shall describe the status of the project and such other information as may be reasonably requested by the County. A copy of the invoice shall be submitted to the County Project Manager for review, and said Project Manager shall verify within fourteen (14) calendar days whether the project status indicated on the invoice is accurate. After approval of this Contract by the Cuyahoga County Executive, the County shall pay all the invoiced amounts within forty-five (45) days of receipt.

OneLink Technical Services shall submit original invoice(s) to the following address:

Cuyahoga County Information Services Center
c/o Accounts Payables
1255 Euclid Ave. 4th Floor
Cleveland, Ohio 44115-1807

3.3 Record Audit Retention. OneLink Technical Services 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 OneLink Technical Services be notified that an audit has been commenced pursuant to Ohio Revised Code §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.

ARTICLE IV - INDEMNITIES AND WARRANTIES

4.1 Indemnification

4.1.1 Generally. OneLink shall indemnify, defend and hold harmless the County from and against any and all losses, in contract or in tort, arising, directly or indirectly, from, out of or in connection with:

- (a) any material breach of any representation or any warranty made by OneLink in this Contract or in any other certificate or document delivered by OneLink to the County pursuant to this Contract;
- (b) the negligence of OneLink or any of its affiliates; and
- (c) any breach by OneLink of any of its covenants or obligations in this Contract.

Notwithstanding the foregoing, OneLink shall not be liable for any losses arising from or to the extent incurred in connection with any injury to or death of a person or any damage to property (including loss of use) to the extent caused by the negligence or willful misconduct of the County.

4.1.2 Infringement. OneLink shall indemnify the County against any claim of infringement of a copyright, patent, trade secret, or similar intellectual property right based on the County's proper use of any deliverable under this Contract. The obligation of indemnification

will not apply where the County has modified the deliverable and the claim of infringement is based on the modification. The County agrees to give OneLink notice of any such claim of infringement as soon as reasonably practicable. If a successful claim of infringement is made, or if OneLink reasonably believes that an infringement claim that is pending may actually succeed, OneLink will, upon consultation with the County, do one (1), and only one (1), of the following:

- (a) Modify the deliverable so that is no longer infringing.
- (b) Replace the deliverable with an equivalent or better item.
- (c) Acquire the right for the County to use the infringing deliverable as it was intended for the County to use under this Contract; or
- (d) Remove the deliverable and refund the fee the County paid for the deliverable and the fee for any other deliverable that required the availability of the infringing deliverable for it to be useful to the County.

4.2 Warranties. All provisions relating to warranties contained in the State Term Contract shall inure to the benefit of Cuyahoga County.

ARTICLE V – TITLE to SOFTWARE / CONFIDENTIALITY

5.1 Title to Software. Except to the extent otherwise expressly provided in State Term Schedule Contract, all source code, documentation, and other software artifacts developed by OneLink Technical Services pursuant to this Contract (the “Software”), shall be considered as a work made for hire, and are hereby assigned to and shall remain the property of the County. The County hereby grants OneLink Technical Services a royalty free perpetual license to copy, use, sub-license and modify the Software. A copy of all Software developed shall be provided to the County in a decrypted, open and modifiable format, together with any proprietary compiler used to translate the source code to machine code if the County does not already have the compiler.

5.2 Confidentiality of Data. All data and other records, including data and records of the County’s clients, entered into any database, files, and data stores of the County or other agencies of the County or supplied to OneLink by the County (the “Data”) are and shall remain the sole property of the County. OneLink Technical Services shall not, without the County’s written consent, copy or use such Data records except to carry out contracted work, and will not transfer such Data records to any other party not involved in the performance of this Contract. All data dictionaries, entity relationships, database configurations, encryption passwords, forms, automated reports, or other software or other artifacts used or necessary to access, extract, use or otherwise interface with the Data shall constitute “Software” under Section 5.1 that belongs to the County and shall be treated by OneLink Technical Services as a trade secret of the County.

ARTICLE VI - CHANGE ORDERS AND APPROVAL PROCESS

6.1 Change Order. The County may from time to time request changes to the work required to be performed by OneLink Technical Services by providing OneLink Technical Services written notice of such changes (“Change Order”). In response to a Change Order submitted by the County, OneLink Technical Services shall (at OneLink Technical Services’ expense) provide

the County a written statement ("Change Proposal") describing the impact, if any, on the price, schedule or both. This Change Proposal shall include (i) a breakdown of the charge and schedule impacts, (ii) a description of any changes to the specifications and responsibilities of the parties, (iii) a schedule for delivery and other performance obligations, and (iv) any other information related to the Change Proposal reasonably required by the County. The charges shall not exceed the charges as set forth in State Term Schedule number 533272-3. Following receipt of the Change Proposal, the parties shall negotiate in good faith to reach agreement upon a plan and schedule for implementation of the Change Order, and the time, manner and amount of payment relating thereto. Any change order requiring, or necessitating, an increase beyond the not-to-exceed price limit listed in section 2.1 of this Contract, or the per item charges listed in Schedule B, shall require the approval of the Cuyahoga County Executive. OneLink Technical Services will not perform tasks outside the Statement of Work (Schedule A) unless it is with prior written approval of Cuyahoga County and in accordance with this clause.

ARTICLE VII - MISCELLANEOUS

7.1 Schedules Incorporated by Reference. The following Attachments, Schedules and Exhibit are attached hereto and are hereby incorporated herein by reference and shall be considered a part of this Contract as if fully rewritten or set forth herein:

Attachment "A": State Term Contract and State Term Schedule 533272-3

Schedule A: Statement of Work

Schedule B: Pricing / Payment Schedule

Exhibit 1: ISC-2011-0804 Proposal

In the event that a discrepancy exists between the terms of the Attachments, Schedules, or Exhibit attached hereto and this Contract, the terms of this Contract will be controlling and binding.

7.2 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:

To the County: Cuyahoga County Information Services Center
Attn: Jeff Mowry, CIO
1255 Euclid Ave. 4th Floor
Cleveland, Ohio 44115-1807

To OneLink: OneLink Technical Services
Attn: Thomas Harkness
875 Westpoint Parkway Suite 500
Westlake, OH 44145

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.

7.3 Governing Law. This Contract shall be subject to interpretation under the laws of the State of Ohio applicable to contracts negotiated, executed and performed therein without reference to conflict of laws, and is subject to the review of the County Prosecutor's Office as to legal form and correctness. Venue in any action brought under this Contract shall be in Cuyahoga County.

7.4 Security Standards. OneLink Technical Services must agree to maintain security standards consistent with the security of the Cuyahoga County Information Services Center. These include strict control of access to data and maintaining confidentiality gained while carrying out its duties. OneLink Technical Services agrees to consider all knowledge gained from access to Information Services Center applications, systems and programs as proprietary information supplied in the strictest confidence and shall release it only to authorized employees/agents requiring such information, shall not release or disclose it to any other party or use it for manufacture or any other purposes except as required under this Contract, without the express written approval of the Cuyahoga County Executive. The term "confidential information" shall mean any device, process, method or technique originated by or exclusively within the knowledge of Cuyahoga County and its representatives, employees, and those in privity with it, which is not available to the public and is subject to protection as property under recognized principles.

7.5 Contract Processing. OneLink Technical Services shall submit one (1) paper copy and one (1) digital copy of this Contract, both with original signatures, to the County at:

Cuyahoga County Information Services Center
c/o Contracts Administrator
1255 Euclid Ave. 4th Floor
Cleveland, Ohio 44115-1807

7.6 Commencement of Contract Performance. In order to protect the interest of Cuyahoga County this Contract must be executed by the Cuyahoga County before compensation for the services or products set forth in this Contract can be provided. In the event that services are provided by OneLink Technical Services prior to the execution of this Contract by the Cuyahoga County Executive, the same will be provided at OneLink Technical Services' risk, and payment therefore cannot, and will not, be made unless and until this Contract is approved by the Cuyahoga County Executive. Upon approval by the Cuyahoga County Executive of this Contract, however, any and all prior performance under this contract shall be deemed ratified and said performance shall be deemed to be included in this contract. Payment(s) for said prior performance shall not increase the amount of the Contract limit.

7.7 Priority of Provisions. All terms of the State Term Contract or any Federal GSA Supply Schedule Contract, upon which this Contract is based, shall remain in full force and effect except to the extent expressly modified herein. In interpreting and applying provisions of the State Term Contract or Federal GSA Contract, the term "County" shall be substituted for "State" or

Federal Government whenever the State Term Contract or Federal GSA Contract intends to confer a benefit upon the State or Federal Government. To the extent that the State Term Contract or Federal GSA Contract are not modify herein, they are incorporated herein as if fully rewritten herein. In resolving conflicts between this Contract, the State Term Contract or Federal GSA Contract, the provisions of this Contract and its schedules shall prevail over any conflicting State Term Contract provision and its schedules; and, the State Term Contract and its schedules shall prevail over any conflicting Federal GSA Contract or schedules.

7.8 Adherence to Electronic Signature Policy of County. By entering into this Contract, OneLink Technical Services, 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. OneLink Technical Services 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.

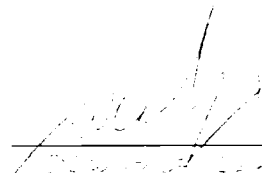
7.9 Termination. Upon the occurrence of any one of the following events, the County shall, upon giving OneLink written notice and without further obligation other than as expressly specified herein, have the right to terminate this Agreement:


(a) A material breach, as determined at the sole discretion of the County, by OneLink in fulfilling any one or more of its obligations under this Agreement, which breach is not cured within thirty (30) days after notice thereof by the County; or

(b) OneLink is declared insolvent or bankrupt, or makes an assignment of a substantial portion of its assets for the benefit of creditors; or a trustee, receiver or other officer of court is appointed to control a substantial portion of its assets, or if bankruptcy, liquidation or reorganization proceedings are instituted by or against OneLink.

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

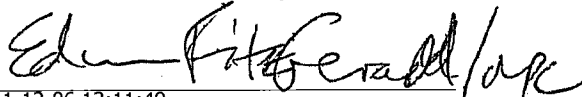
OneLink Technical Services, LLC

By: 

Fed. TIN = 

The County of Cuyahoga, Ohio

Edward FitzGerald, County Executive

By: 

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Edward FitzGerald, County Executive