# THE SCHOOL DISTRICT OF ESCAMBIA COUNTY
## PURCHASING DEPARTMENT

## SCHOOL BOARD EXECUTIVE SUMMARY

**March 15, 2011**
**V. D. CONSENT AGENDA / PURCHASING**
**13. Skyward / Enterprise Resource Planning Software**

**DESCRIPTION OF PURCHASE:**

Five (5) year agreement to purchase a replacement for the current Finance and Human Resources operating system which will cover every aspect of the district's business and human resources processes and will modernize the way we operate our budgeting, accounting, accounts payable, payroll, warehouse, human resources, and various other business activities. Purchase includes implementation services, software licensing, training, off-site hosting, and disaster recovery. Targeted full deployment of platform – July 2012. See attached agreement.

**REQUESTED BY:**

Assistant Superintendent for Finance and Business Services

**DISTRICT GOAL SUPPORTED / PURPOSE OR END USE:**

District Goal #E.3: Continuity: Improve operational continuity in the learning, work, and virtual/technological environment.

**SUPPLIER NAME:**

SKYWARD, Inc., Stevens Point, WI

**AMOUNT OF PURCHASE:**

$1,469,016.00 (Initial Year)

**FUNDING SOURCE:**

General Fund (1110) – ERP Project (0648) $585,664.00

Capital Improve Tax Constr Fund – FY 2011 (3711) - ERP Project (0648) $883,352.00

**METHOD OF PROCUREMENT:**

Negotiation

**OTHER REFERENCES:**

School Board Rule 6Gx17-5.02(4)(F) – Acquisition of Information Technology Resources

# Software Services and License Agreement
# Skyward ERP Information System

## The Escambia County School Board

## And

## Skyward, Inc.

## March 15, 2011

## Software Services and License Agreement

**THIS SOFTWARE SERVICES AND LICENSE AGREEMENT** is entered into, on the 15TH Day of March 2011, by and between the SCHOOL BOARD OF ESCAMBIA COUNTY FLORIDA ("ECSB"), governing body of the school district of Escambia County, Florida ("the District"), and SKYWARD, Inc., a Wisconsin corporation having its principal place of business at 5233 Coye Drive, Stevens Point, WI 544481 ("SKYWARD"), with reference to the following facts:

**WHEREAS** the District is responsible for provision of all public educational services required to be provided by state and local law to children through 12th grade and certain adult education services for students in the County of Escambia Florida, certain other incorporated municipalities within the County of Escambia Florida, and certain unincorporated areas of the County of Escambia Florida. It is governed by and acts by and through the authority of an elected School Board.

**WHEREAS** SKYWARD is engaged generally in the business of supplying technology and technology-related services to government agencies and instrumentalities throughout the United States of America. Among other things, SKYWARD is engaged in the business of developing, licensing, installing and maintaining, computer software for use in the management and operation of schools and educational service programs, with particular but not exclusive emphasis on K-12 education.

**WHEREAS** Florida and federal law requires the District to maintain systems and procedures for collection, storage, retrieval, and processing of a wide variety of information relating to its finances, students and programs.

**WHEREAS** SKYWARD has heretofore acquired all rights to its Enterprise Resource Planning (ERP) software products and has continued the development of the same, which programs provide the majority of the District's requirements for its ERP. In addition, SKYWARD has the technical and personnel capacity to develop, test, integrate and deploy additional features to complete substantially all of the District's requirements for ERP, and to convert and maintain its programs, as enhanced in adding District functionality and installing an acceptable system to the District.

**WHEREAS,** The parties have now reached an agreement and understanding, subject to the approval of the ECSB, as to the specific products and services to be provided by SKYWARD to the District and the terms and conditions on which such products and services will be provided.

**NOW, THEREFORE,** in consideration of the mutual promises of the parties and other good and valuable consideration, receipt of which is hereby acknowledged, and subject to the approval of the ECSB as required by law, the parties agree as follows:

1. **DEFINITIONS**. The following terms shall have the meanings set forth below:

1.1 **"Acceptance Test"** shall mean the conduct of the series of tests and protocols specified in the Project Documents for a particular Deliverable, the successful completion of which signify the successful delivery of such Deliverable. In the case of a documentary Deliverable, the Acceptance Test for such Deliverable shall mean the review by the District of

such documentary Deliverable and certification that such Deliverable complies in all material respects with the requirements for such documentary Deliverable.

1.2 "**Additional School**" shall mean any separately functioning school unit (whether an additional physical plant or a separately identified school unit operating within the same physical plant as another school unit) founded or created within the District after the date of execution of this Agreement.

1.3 "**Agreement**" shall mean this Agreement, together with all Exhibits and Schedules hereto and any amendments made in accordance with the terms hereof.

1.4 "**Baseline Software**" shall mean the PaC Software as the same is commercially available as of the Commencement Date and owned or licensed by SKYWARD, which computer programs will be licensed to the District as part of the ERP, as such programs shall be upgraded and enhanced by SKYWARD from time to time hereafter.

1.5 "**School Board**" shall mean the School Board of Escambia County, Florida, as the same is constituted from time to time.

1.6 "**Business Day**" shall mean a day in which general business operations of the District are conducted, whether or not schools are open, but shall not include any day in which the general business offices of the District are closed. All other references to "days" refer to calendar days.

1.7 "**Change Order**" shall mean a modification or clarification of the Project Documents that is duly adopted by the Parties in accordance with the Scope Management Process.

1.8 "**Change Request**" shall mean a request by a Party for a Change Order made in accordance with the Scope Management Process.

1.9 "**Commencement Date**" shall mean date, upon which the final necessary signature is affixed to this agreement.

1.10 "**Critical Deliverable**" shall mean a Deliverable, the acceptance of which is necessary for the release of any significant component of Software into Production, as more specifically identified in the Project Documents.

1.11 "**Defect**" shall mean a characteristic or condition of the Licensed Software which results in the failure of such software to operate in accordance with the Specifications and/or which results in the input, storage, computation, transfer or display of erroneous information. Defects shall be characterized by their severity as set forth in the Maintenance Service Schedule.

1.12 "**Deliverable**" shall mean any unit of work required to be delivered by SKYWARD to the District as a Deliverable in the Statement of Work.

1.13 "**Deliverable Date**" shall be the deadline date for the delivery or completion of a Deliverable under this Agreement.

1.14 "**Delivery**" of a Deliverable shall be deemed to have taken place (or the Deliverable shall have been deemed "Delivered") as follows:

1.14.1 In the case of items to be delivered in tangible form, upon the transfer of possession of the item to the control of the respective District personnel designated to receive such possession at the designated time and place, or if no place is designated at such person's office.

1.14.2 In the case of items to be delivered by electronic transmission, upon the successful completion of transmission and installation to the designated District computer and verification of the accuracy of such transmission.

1.14.3 In the case of items for which payment is conditioned upon the completion of an acceptance test, upon the certification by the designated agent or employee of the District that such acceptance test has been completed to the reasonable satisfaction of such agent.

1.14.4 In all other cases, upon the completion of the Services encompassed by such Deliverable in all material respects as set forth in the applicable schedule to this Agreement.

1.15 "**Dispute Statement**" shall mean a statement submitted by a Party under Section 10 below.

1.16 "**District**" shall mean the ECSB as governing body of the School District, the Escambia County School District, each and every subdivision or unit thereof constituted now and in the future including schools and or territories within Escambia County, Florida and charter schools in Escambia County and other entities with whom the District contracts, and each and every entity in the future which reports to or is the responsibility of the ECSB with respects to its responsibility to provide educational services to students at any level of education. The District acknowledges the software is sold based on the scope of services in the Skyward ERP proposals including the number of schools and students contained therein. In the event new schools are added or an existing school is closed, prior to or during implementation, an adjustment to the purchase price will be negotiated between the parties.

1.17 "**Documentation**" shall mean all material, other than Object Code and Source Code, that relates to the operation, installation, maintenance, and actual or potential upgrade or modification of the Licensed Software, including without limitation, instruction manuals, technical manuals, specifications, flow charts, use case diagrams, templates, and forms, regardless of whether such material is visually readable or recorded electronically.

1.18 "**End User**" shall mean an individual who supplies, analyzes, and/or retrieves student, school, employee, financial or related data by directly or indirectly invoking a computer program.

1.19 "**Enhanced Software**" shall mean those any and all future Releases of ERP Software that will be developed by SKYWARD under this Agreement, but which will be made available by SKYWARD to other Persons in the future. Specifically, Enhanced Software shall include any Release of ERP first made available to any customer or licensee of SKYWARD from and after March 15, 2011.

1.20 "**ERP**" Shall mean the Enterprise Resource Planning suite of software (or individual components thereof) offered by SKYWARD, among other things, for Financial, Payroll and Human Resources, whether offered under the current trademark or another mark, the requirements for which are set forth in the Statement of Work and the Specifications.

1.21 "**Force Majeure Event**" shall mean fire, flood, earthquake, elements of nature or acts of God; acts of war, terrorism, riots, civil disorders, rebellions or revolutions; strikes, lockouts, or labor difficulties, equipment failures, computer viruses, malicious acts of third parties, interruption of telecommunications service; or any other similar cause beyond the reasonable control of the respective Party, that could not have been prevented by reasonable precautions of the kind ordinarily taken by well-managed firms engaged in software development and maintenance (such as, by way of illustration and not limitation, regular software backups and regular use of commercial anti-virus software, but not including duplicate or parallel computer systems or on or off-site backup or disaster recovery equipment).

1.22 "**Issue Resolution Process**" shall mean the procedures for identifying and resolving issues related to the determination or interpretation of Project Documents, as set forth in Section 3.8 of this Agreement.

1.23 "**District Features**" shall mean those certain computer programs and program functions developed for delivery to and installation and use by the District.

1.24 "**District Resource Plan**" shall mean the schedule of personnel and other resources that the District has committed to provide in support of its obligations during the Project.

1.25 "**District Supplied Software**" shall mean and include any computer programs specified in the Statement of Work to be supplied by the District, either for use during development or during production.

1.26 "**License**" means any of the licenses set forth in Section 4 hereof.

1.27 "**Licensed Software**" shall mean any and all computer software sold to the District for the operation of the ERP, including without limitation software owned or licensed by SKYWARD or Third Party Software, and any revisions, modifications, releases or enhancements thereto prepared by or for SKYWARD, but excepting Third Party Software specifically identified in the Statement of Work as being the responsibility of the District.

1.28 "**License Fees**" shall mean any fees paid or to be paid by the District to SKYWARD in respect of the right to copy, install, distribute use, or make derivative works from Licensed Software under this Agreement.

1.29 "**Maintenance Materials**" shall mean the Object Code, Source Code and Documentation for error corrections, minor enhancements, updates, and Releases of the Licensed Software supplied or to be supplied by SKYWARD pursuant to its responsibilities under the warranty or maintenance service provisions of this Agreement.

1.30 "**Maintenance Service Schedule**" shall mean the description of maintenance services attached hereto as Exhibit C.

1.31 "**Object Code**" shall mean the form of a computer program that may be loaded for execution without intervening process other than the use of a program loader, linkage editor or similar computer program.

1.32 "**Party**" shall mean the District and/or SKYWARD, as the context requires.

1.33 "**Person**" shall mean any natural person or entity recognized by law.

1.34 "**Platform Software**" shall mean any computer program required for the operation, installation, debugging or maintenance of another program, including without limitation, operating systems, database management systems, compilers, interpreters, runtime or execution environments, development environments and the like.

1.35 "**Pricing Schedule**" shall mean the schedule of prices and payments attached hereto as Exhibit B.

1.36 "**Production**" shall mean the use of the ERP in the ordinary course of the operations of the District.

1.37 "**Product Plan**" shall mean the complete set of requirements and specifications for the ERP as finalized in accordance with this Agreement.

1.38 "**Project**" shall mean and include all work to be performed under the terms of this Agreement, including without limitation all Services and all intangible and tangible Deliverables.

1.39 "**Project Documents**" shall mean the Statement of Work, the Pricing Schedule, the Specifications, together with any supporting charts, schedules, or documents specified in those documents or any Change Order approved by the parties.

1.40 "**Project Manager**" shall mean the individual designated by the respective Party pursuant to Section 3.1.

1.41 "**Proposal**" shall mean SKYWARD's proposals which are attached as exhibits, together with all written clarifications exchanged by the Parties on or before the date hereof, including all text, graphics, summaries and documents referred to in such Proposal.

1.42 "**Proprietary Information**" shall mean all information relating to data, programs, or support information which is a trade secret as defined in 812.081(1)(c) as provided in Section 815.04(3)(a) and 688.002(4), Florida Statutes. Proprietary Information shall not include

information which the (provider) of the information can demonstrate: A) Is public knowledge or which becomes public knowledge through no breach of this Agreement; or B) Is required to be disclosed to the public by reason of a statute or by any public or regulatory authority.

Proprietary Information may be conveyed by written, graphic, electronic, oral, or physical financial condition, models, source code, object code, drawings, formulas, processes, ideas, inventions as provided above.

All Proprietary Information shall be marked as proprietary with an appropriate legend, marking, stamp or other obvious written identification by the disclosing party prior to disclosure. In the event either Party discloses its Proprietary Information to the other Party other than in the manner provided for above, the disclosing party shall promptly inform the receiving party that such information is deemed proprietary by reference to Florida or Federal Statute, and shall provide the receiving party with a brief written description of such information within thirty (30) days of such disclosure, identifying therein the manner, place, and date of such disclosure and the names of the receiving party's representative to whom such disclosure was made. Notwithstanding the foregoing, all information, the privacy or disclosure of which is protected by applicable law or regulation shall be treated as proprietary information of the person holding the interests so protected, whether or not such information is marked or otherwise identified as confidential or proprietary.

1.43 "**Release**" when referring to computer software, shall mean a modification or addition to existing computer software that requires substantial reconfiguration and/or re-installation of computer software in Production. Releases shall include any and all new releases of existing software products and/or replacement products made available by SKYWARD that provide substantially all of the operational functions of the Licensed Software with paid Maintenance contract.

1.44 "**Resource**" shall mean the time or effort of a Party or its employees or contractors or a quantity of components, supplies, software, software rights or material to be supplied by or on behalf of a Party under this Agreement.

1.45 "**ERP Software**" shall mean the suite of software (or individual components thereof) offered by SKYWARD, among other things, for student, fiscal/human resources and school information management, whether offered under the current trademark or another mark.

1.46 "**Scope Management Process**" shall mean the provisions relating to processes for the modification or amendment of the Statement of Work and/or the pricing relating thereto, as the same are set forth in Exhibit D attached hereto.

1.47 "**Services**" shall mean and include all services to be performed or provided pursuant to this Agreement, the Statement of Work, and any Schedules and Exhibits hereto, including without limitation, software development, maintenance, testing, project management, consultation, and provisioning of Third Party Software, whether under the initial Statement of Work, any Change Order, or any Work Order.

1.48 "**Source Code**" shall mean and include all forms of a computer program, other than the program's Object Code, including without limitation, the instruction sequences in whatever language written, internal documentation, job control languages, scripts, configuration and data files, required for the compilation, debugging, linkage editing, loading, and maintenance of the Object Code of such computer program, but not including Platform Software and Third Party Software, unless expressly so provided.

1.49 "**Specifications**" shall mean the detailed set of specifications for the System as set in the specifications or Scope of Work and Services of the Proposals and/or the documents referenced in such specifications document, as defined by the Product Plan.

1.50 "**Statement of Work**" shall mean the statement of work attached hereto as Exhibit A, as the same shall be modified or amended in accordance with the terms of this Agreement and/or the Scope Management Process.

1.51 "**Statement of Work ISCorp**" shall mean the statement of work attached hereto as Exhibit E, as the same shall be modified or amended in accordance with the terms of this Agreement and/or the Scope Management Process.

1.52 "**Test Environment**" shall mean a configuration of hardware and Platform Software accessed by the District and provided on or off District premises for the purpose of configuring and testing Deliverables and managing release for use in Production.

1.53 "**Third Party Software**" shall mean any computer program supplied by a Person other than SKYWARD, which is required for the operation of the ERP, including without limitation, any Platform Software and any applications software that will be dependent on the Baseline Software, the Enhanced Software or the District Features for its operation.

1.54 "**Work Order**" shall mean a request for small or routine services issued by the District pursuant to procedures set forth for Work Orders in the Scope Management Process.

1.55 "**Confidential Information**" shall mean and include student records and reports that are confidential and exempt from disclosure under Section 119.07(1), Florida Statutes, as provided in Section 1002.22, Florida Statutes, District employee personnel files that are confidential and exempt from disclosure under Section 119.07(1), Florida Statutes, as provided in Section 1012.31, Florida Statutes, and any other information, record, or document that is confidential or subject to privacy protection as otherwise provided by law, including but not limited to District's and Skyward's Proprietary Information.

## 2. PRODUCTS AND SERVICES TO BE PROVIDED BY SKYWARD

2.1 General Scope. SKYWARD shall provide to the District, on the terms and conditions set forth in this Agreement, all products and services required for the development, installation, and maintenance of the ERP as set forth in the proposals, other than the provision of hardware and Third Party Software expressly excluded under the terms of this Agreement and the responsibilities expressly reserved to the District as set forth in the Statement of Work.

Without limiting the generality of the foregoing, SKYWARD shall provide all those Services and Deliverables as are set forth in the Statement of Work on or before the Due Dates set forth for such Services and Deliverables in the Statement of Work.

2.2 Option to Add Schools. The current contract calls for the number of schools defined in the District as of March 15, 2011. During the Term of this Agreement, the District may construct, expand, or take responsibility for Additional Schools and Skyward will provide the appropriate quote based on the prevailing rate for Florida School Districts and as may be mutually negotiated. The District may elect separately for each Additional School to receive Training Services and/or Data Conversion Services for such Additional School. The District's election to receive Services for additional schools shall not be treated as a Change Request (or Change Order or Work Order) and not subject to the Scope Management Process.

2.3 Software Maintenance Services. During the Term of this Agreement SKYWARD shall provide all services required by the District to maintain and upgrade the ERP Software as set forth in the Maintenance Service Schedule. The Maintenance Services Fee may be increased by SKYWARD to SKYWARD's prevailing level for similar maintenance services to similar customers, but in no event increased each year by more than 2.75% over the Annual Fee in effect for the preceding one (1) year period of maintenance services through June 30, 2016. After June 30, 2016 an increase in the Maintenance Service Fee will be capped at the 4% a year of the then current District Annual License Fee or the same percentage as other Florida School Districts whichever is lower. Nothing herein shall be deemed to obligate the District to purchase maintenance services beyond the term of this Agreement.

2.4 Source Code and Documentation. SKYWARD agrees to deliver to Customer a copy of the current source code for all Licensed Software (and any upgrades to such software at the time of any such new release or upgrade) at no charge to the District for the District's use if SKYWARD at any time goes out of business, files for bankruptcy, has an involuntary petition for bankruptcy filed against it, makes an assignment for the benefit of creditors or otherwise in any way discontinues support for the then current version of the license. In addition to above, Customer has the option to purchase the current Source Code and Documentation in effect at anytime during the term of this agreement at 10% of the "One time Investment Cost" or $59,553.00 as indicated in Exhibit 'B".

2.5 Electronic Delivery. All Deliverables of Licensed Software and Documentation required or permitted under the terms of this Agreement shall be delivered from a point of transmission outside of facilities owned or operated by the District by electronic transmission via common telecommunications carrier or the public Internet to and for storage within computing hardware and electronic storage devices owned or under the control of the District or contracted for its use. No tangible media Object Code, Source Code or Documentation shall be delivered to the possession and/or ownership of the District.

2.6 Standard of Care. In providing services under this Agreement, SKYWARD will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by other providers of similar software products and services and under similar circumstances.

Upon notice to the SKYWARD and by mutual agreement between the parties, SKYWARD will, without additional compensation, correct those services not meeting such a standard.

2.7 Acceptance of Deliverables; No Waiver. Delivery of a Deliverable shall not be deemed complete unless and until the Deliverable shall have successfully completed the Acceptance Tests specified for such Deliverable. In the event that a Deliverable shall not satisfy the requirements of the applicable Acceptance Test, SKYWARD shall promptly correct and/or revise the Deliverable such that the Deliverable shall satisfy the requirements of the specified Acceptance Test and shall continue to correct and/or revise the Deliverable until such time as the Acceptance Test for such Deliverable shall have been completed successfully. No failure to object or inaction on the part of the District shall be deemed an acceptance of any Deliverable under this Agreement, nor to delay or waive the due date for any Critical Deliverable, except that the District's use of the Deliverable in Production shall be deemed its acceptance. If a Critical Deliverable is missed, either Party may invoke the Dispute Resolution Process set forth in Section 10 hereof. As part of this resolution process, the Parties may negotiate and assess damages to either party for failure to perform, mutually amend schedule and/or requirements as it relates to the missed deliverable, or terminate this agreement for breach as provided for herein.

2.8 Third Party Software Procurement. The District may elect to purchase licenses to one or more items of Third Party Software products itemized in the Pricing Schedule, by issuing a purchase order for the same to SKYWARD. SKYWARD shall thereafter arrange for the delivery of the same to the District, by electronic means to the maximum extent made possible by the licensor of such Third Party Software. In such event, the District shall pay the price for such items in accordance with the price, formula or method set forth in the Pricing Schedule provided that license rights for such Third Party Software shall run directly to the District from its respective licensor, the District's rights with respect to such Third Party Software shall be solely those rights (including rights to install, use and make derivative works) conveyed under the respective licensor's license agreements. In the event that SKYWARD acts as a sub licensor to the District of such Third Party Software, SKYWARD shall assign to the District or otherwise assure to the District that the District has all rights to such software as it would have under the licensor's prevailing direct end user license agreements. SKYWARD shall arrange for the District to contract with the licensor of such software for customary maintenance and update services.

2.9 No Obligation of the District. Nothing herein, however, shall require the District to purchase any hardware or Third Party Software other than Licensed Software from SKYWARD and the District shall be free in its sole discretion to select any vendor it so chooses for such purchases.

## 3. PROJECT MANAGEMENT

3.1 Project Managers. At the time of execution of this Agreement, each Party shall designate in writing and communicate to the other, an individual as its Project Manager, who shall serve as a single authoritative point of contact for the other Party during the course of its activities pursuant to this Agreement. Neither Party shall change its Project Manager for a

period of at least three (3) months after designation, except in the event such Project Manager ceases all employment with the Party, the other Party reasonably requests a change in such Project Manager, or the other Party consents to such change on notice which is reasonable in light of the circumstances. Thereafter, changes in SKYWARD's Project Managers shall be subject to the same provisions of Section 7.2 of this Agreement as are applicable to any others of SKYWARD's designated management personnel. Project Managers shall have authority to negotiate all Change Orders in accordance with the Scope Management Process, other than those requiring approval by the ECSB or SKYWARD or District Executive Sponsors, and shall be authorized by their respective Party to make reasonable staff re-assignments (subject to the provisions of Section 7.2) and to make all communications to the other Party and its designated Project Manager as are required or convenient to the efficient progress of the Project. Nothing herein, however, shall be construed as precluding communication between subordinate persons for the purpose of consultation and cooperation, provided that no such subordinate shall have actual or ostensible authority to authorize Change Orders, except as expressly provided in the Scope Management Process.

3.2 Product Plan. The Parties shall work together as provided in the Statement of Work to finalize a Product Plan, which Product Plan shall, when approved by both SKYWARD and the School District's Superintendent or his designee, state the final Specifications for the Project. If the Parties cannot reach agreement as to such Product Plan within one hundred eighty (180) days after the Commencement Date, the matter shall be escalated in accordance with the dispute resolution process set forth in Section 10. Notwithstanding the foregoing, nothing herein shall constitute the District's waiver of or agreement to waive any requirements from SKYWARD for the ERP as set forth in the Specifications.

3.3 Reporting. During the term of this Agreement, SKYWARD shall provide periodic status and performance reports with the content and at the intervals as set forth in the Statement of Work.

3.4 Documentation Standards. In connection with the delivery to the District of each installment, component or version of the Licensed Software or Maintenance Materials, SKYWARD shall provide all Documentation reasonably required for the configuration, installation, testing, maintenance and operation of such installment, component or version, as required by the Statement of Work. Technical Documentation shall be in most cases in the form of electronic tutorials and written in a manner sufficient to enable a software engineer or programmer ordinarily skilled in the art and in the use of the Platform Software to maintain such software with commercially reasonable effort, to make reasonable modifications and enhancements for maintenance of existing functionality, and to aid in isolating and correcting design or functional errors in the Licensed Software. Documentation of user instructions shall be in accordance with best industry practices for similar software. Acceptance testing shall include review of associated Documentation for compliance with these standards.

3.5 Inspection Rights. The District and its agents shall have the right, on a non-interference basis and upon reasonable notice to SKYWARD, to visit and inspect the facilities (and any hardware or software) used by SKYWARD or any subcontractor to perform its

obligations hereunder. SKYWARD shall, and shall cause any subcontractor to, reasonably cooperate with and assist the District in exercising its inspection rights under this Section.

3.6 Use of Contractors. Prior to subcontracting any portion of the Services, SKYWARD shall notify the District of the proposed subcontract and proposed subcontractor, including without limitation any legal entity and/or any individual not in the exclusive employ of SKYWARD who would be involved in any manner in the Services, other than activities relating the development of the ERP software product. The notice should provide background information with respect to the proposed subcontractor that is appropriate to the nature and scope of the subcontractor's activities. In the event the District objects to such subcontractor, SKYWARD shall not use such subcontractor in connection with such work. No subcontractors have yet been approved by the District as of the execution of this Agreement. No subcontracting or other arrangement shall release SKYWARD from its responsibility for its obligations under this Agreement. No subcontractor may be engaged unless such subcontractor and each of its employees providing services on the relevant engagement certifies in writing such qualifications as are required by the District for contractors generally, and agrees in writing to guard the confidentiality of Proprietary Information of the District to the same standard of care as binds SKYWARD under this Agreement and agrees in writing, prior to commencing work, that all work is a "work for hire" under the Copyright Laws of the United States and that in the event that such work is not eligible for treatment as such a work for hire, such subcontractor presently, prospectively and irrevocably assigns any copyrights in such work to SKYWARD. Use of such contractors shall also be conditioned on contractors' compliance with any insurance requirements otherwise applicable to SKYWARD, except that the applicable limit shall be $2,000,000, combined limit. The District may require delivery of reasonable evidence of compliance as a condition of consent.

3.7 Scope Management. Neither the functional requirements of the Licensed Software nor the specifications, manner of delivery, or schedule of activities set forth in the Statement of Work, nor shall the charges therefore be modified, except in accordance with the procedures set forth in the Scope Management Process. In particular, SKYWARD's response to a Change Request from the District (or SKYWARD offer of a Change Request) shall constitute its firm offer to perform the additional or modified Services and/or provide the additional or modified Deliverables as set forth in the Scope Management Process. Notwithstanding the foregoing, no provision set forth in this Agreement shall be deemed amended, except in strict compliance with the terms outlined in this Agreement.

3.8 Issue Resolution Process. In the event the Parties fail to reach agreement on matters not wholly specified in the Project Documents, upon the request of either Party, the Parties shall follow the Issue Resolution Process set forth in the Statement of Work, provided that the participation of a Party in such Issue Resolution Process shall not limit or otherwise affect the remedies that the Party otherwise may have under this Agreement or applicable law.

## 4. INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIAL INFORMATION

4.1 Object Code License. SKYWARD grants to the District a perpetual, non-exclusive, non-transferable, non-refundable royalty-free right and license to install and use the Object Code of all Licensed Software on any, some or all computing devices used by or for the benefit of the District in connection with the operation of the District, effective on delivery of each component or installment thereof, subject only to payment therefore as provided in this Agreement and the Pricing Schedule. The right granted by this paragraph shall extend to the right of contractors to the District, other government agencies, students, parents, health care providers, and other End Users who have a reasonable need to avail themselves of the services provided by the ERP for the sole purpose of conducting District business, to use the Licensed Software by remote or local access, and to install and use any applets or plug-ins that are part of the Licensed Software and are provided for the purpose of using or facilitating the use of the Licensed Software or any portion thereof on a remote or client basis. The District shall not sublicense any rights granted to the District under this Agreement.

4.2 Documentation License. Upon delivery to the District of Documentation other than documentation of Third Party Software, SKYWARD grants to the District a non-exclusive, perpetual, royalty-free right and license to copy, make derivative works, distribute and display such Documentation to authorized users of the ERP. In the case of Documentation containing Proprietary Information of SKYWARD, the distribution of copies of such Documentation shall be limited to Persons with a reasonable need to know such Proprietary Information in connection with their activities for the District who are bound by obligations of confidentiality at least as strict as the obligations of confidentiality of the District to SKYWARD with respect to the particular materials being delivered or proposed to be delivered

4.3 Software Acquired from Third Parties. Skyward does not hold any 3rd party source code.

4.4 Protection of Proprietary Information. The District agrees that it will not disclose SKYWARD's Proprietary Information to any Person, except to the District's employees with a need to know who are bound by agreements or employment policies restricting the right of such employees to use or disclose such Proprietary Information for any purpose other than the Project, and authorized contractors, in accordance with Section 4.2 of this Agreement. The District agrees to preserve the confidentiality of SKYWARD's Proprietary Information with the same level of care it uses with respect to its own Confidential Information, but in no event less than a reasonable level of care. The foregoing obligation does not apply to Proprietary Information which is already known to the District at the time of its receipt from SKYWARD, is disclosed to the District by a third party who had the right to make such disclosure without any confidentiality restrictions, is, or through no fault of the District, has become generally available to the public, or is independently developed by the District without access to, or use of, SKYWARD's Proprietary Information. Notwithstanding the foregoing, the District may disclose Proprietary Information of SKYWARD to the extent that such disclosure is necessary for the District to enforce its rights under this Agreement, or required by law or by the order of a court or similar judicial or administrative body. In the event the District receives a third party subpoena, notice to produce or other judicial or administrative request for disclosure, the District

shall notify SKYWARD as soon as is reasonably practicable after the receipt of such request in order to permit SKYWARD to take such action as SKYWARD sees fit to obtain protective orders or other relief from the compulsion of process against the District to compel such disclosure.

4.5 Protection of Confidential Information. SKYWARD agrees that it will not disclose the District's Confidential Information to any Person, except to SKYWARD's employees with a need to know who are bound by agreements or employment policies restricting the right of such employees to use or disclose such Confidential Information for any purpose other than the Project. SKYWARD agrees to preserve the confidentiality of the District's Confidential Information with the same level of care it uses with respect to its own Proprietary Information, but in no event less than a reasonable level of care. SKYWARD shall implement operating practices and procedures that will maintain the confidentiality and assure the physical security of all student records accessed and used in the course of providing professional services under this Agreement; prohibit the release or disclosure of such records to anyone except authorized ECSB personnel, prevent any unauthorized access to such records, and (iv) preclude the unauthorized use, release, or disclosure of the information contained in such records. The foregoing obligation does not apply to Confidential Information which is required by law or by the order of a court or similar judicial or administrative body. In the event SKYWARD receives a third party subpoena, notice to produce or other judicial or administrative request for disclosure, SKYWARD shall notify the District as soon as is reasonably practicable after the receipt of such request in order to permit the District to take such action as the District sees fit to obtain protective orders or other relief from the compulsion of process against SKYWARD to compel such disclosure.

4.6 Public Records. The parties acknowledge that they are subject to the provisions of Chapter 119, Florida Statutes relating to the release of public records. District shall notify SKYWARD as soon as is reasonably practicable after the receipt of a public records request that may include SKYWARD's Proprietary Information in order to permit SKYWARD to take such actions permitted under the law to protect its Proprietary Information.

4.7 Rights in Data. The District is and will remain the owner of all data provided to SKYWARD by the District pursuant to this Contract. SKYWARD will not use such data for any purpose other than providing Services and support the District under this Agreement, nor will any part of such data be sold, assigned, leased or otherwise disclosed to third parties (other than authorized subcontractors for purposes of performance of the Services) or commercially exploited by or on behalf of SKYWARD. SKYWARD will not possess or assert any lien or other right against such data. The District agrees not to provide or otherwise make the Licensed Software available in any form to any person, except in strict conformity with the licenses expressly granted under this Agreement.

4.8 SKYWARD Intellectual Property / Residual Rights. Except as otherwise provided in this Agreement, SKYWARD retains all right, title, and interest in and to any inventions (patentable or otherwise), discoveries, improvements or copyrightable works, discovered or prepared by Skyward employees with respect to the Licensed Software (whether the Baseline Software, Enhanced Software or the District's Features) that SKYWARD creates or

licenses to the District in connection with its performance of Services hereunder (collectively "SKYWARD Intellectual Property"). The District shall execute such truthful acknowledgments, affidavits or other documentation reasonably required by SKYWARD, during and for a reasonable period after the Term, to assist in proving SKYWARD creation and/or ownership of SKYWARD Intellectual Property. Subject to any restrictions expressed elsewhere in this Agreement, each Party and its respective subcontractors shall have the right to re-use any of their know-how, ideas, concepts, methods, processes, expressions, skill, experience or similar information, however characterized, whether in tangible or intangible form, and whether used by them during the Project or not, at any time and without limitation, provided that such use shall not infringe the patents, copyrights, or trade secrets of the other Party. Each Party further retains ownership of any and all of its respective intellectual property rights that existed prior to the effective date of this Agreement including, without limitation, all methods, concepts, designs, reports, programs, and templates, and any Third Party Software. Nothing in this Contract will prevent SKYWARD or its authorized subcontractors from marketing, developing, using, and performing services similar to or competitive with the Services and products furnished under this Contract or will prevent the District from engaging other contractors to provide services of any sort to the District (provided that the intellectual property rights of SKYWARD are not thereby infringed.

5. **WARRANTIES**. SKYWARD represents, warrants, and covenants to District as follows (collectively the "Warranty"):

5.1 Warranty General. The Warranties set forth in Sections 5.2 through 5.9 hereof will survive the termination of this agreement for any reason provided that the District: continues to use the delivered version of the Licensed Software; and has not modified the Licensed Software or documentation without SKYWARD's consent. The Warranty set forth in Section 5.10 shall be as set forth therein.

5.2 Software Limitations. At the time of installation, no software comprising a Deliverable or licensed hereunder shall contain any virus, "Trojan horse," timer, clock, counter, or other limiting design, instruction, or routine that would erase data or programming or cause the software or any hardware or computer system to become inoperable or otherwise incapable of being used in the full manner for which it was designed and created (a "Software Limitation"). SKYWARD shall not include any such Software Limitation in any Maintenance Materials provided to the District. SKYWARD also shall use all reasonable practices and security procedures necessary to avoid insertion of Software Limitations prior to installation of any Deliverable. Any Deliverable shall operate compatibly with major commercially available virus protection programs that District may use. Further, no Software Limitation shall be triggered by: any Deliverable being used or copied a certain number of times, or after the lapse of a certain period of time; any Deliverable being installed on or moved to a central processing unit or system that has a serial number, model number, or other identification different from the central processing unit or system on which such Deliverable or Licensed Software originally was installed; or the occurrence or lapse of any similar triggering factor or event.

5.3 Year 2000. All Deliverables shall be Year 2000 Compliant. For purposes of this Agreement "Year 2000 Compliant" means that each Deliverable shall not be materially affected by any inability to completely and accurately address, present, produce, store, and calculate data involving dates beginning with January 1, 2000, and will not produce abnormally ending or incorrect results involving such dates as used in any forward or regression date-based function; or function in such a way that all "date" related functionalities and data fields include the indication of century and millennium, and will perform calculations that involve a four-digit year field.

5.4 Accuracy of Documentation. SKYWARD shall use reasonable efforts to ensure the documentation is complete and describes the application Deliverable and components thereof accurately so as to enable a staff consisting of a reasonable number of information systems professionals with ordinary skills, who has successfully completed related Skyward training and experience to utilize the Deliverable for the purposes for which it is being acquired by or intended for use by District. If documentation is deemed insufficient, SKYWARD shall have thirty (30) business days to rectify.

5.5 Non-infringement. The Licensed Software shall not violate or infringe upon the rights of any third party, including, without limitation, any patent rights, copyright rights, trademark rights, trade secret rights, or other proprietary rights of any kind. Lawful use by the District Rights of the ERP Software in accordance with the Specifications does not require the District to secure rights to use Platform Software or other Third Party Software (whether acquired through SKYWARD or through or from others) except for those specific items identified in the Statement of Work in the quantities and/or for the categories of users set forth in the Statement of Work.

5.6 Authority. SKYWARD has full power and authority to enter into this Agreement and to perform hereunder and there under. Such entry and performance do not violate the rights of any third party, and SKYWARD shall make diligent effort including investigation and review to ensure any rights of any third party are not violated.

5.7 No Claims. There is no action, suit, proceeding, or material claim or investigation pending or threatened against SKYWARD in any court, or by or before any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, or before any arbitrator of any kind, that, if adversely determined, might adversely affect any Deliverable or restrict SKYWARD's ability to complete the transactions contemplated by this Agreement, or restrict District's right to use any Deliverable. SKYWARD knows of no basis for any such action, suit, claim, investigation, or proceeding.

5.8 Third Party Warranties. SKYWARD has the right to assign and transfer to District all of SKYWARD's rights under any and all warranties received from the supplier (other than SKYWARD) of any component of any Deliverable, and has the right to assign or transfer to District such supplier's warranties.

5.9 Title. SKYWARD has full title and right to license and deliver to District, all Deliverables, including without limitation software owned by SKYWARD and Third Party Software (other than District Supplied Software).

5.10 Limited Warranty. For a period of one hundred and eighty (180) days from the date of the first day of end user training, the Licensed Software shall: be free from Defects in material and workmanship and remain in good working order and function properly and in conformity with the Proposals and the Statement of Work and in accordance with this Agreement.

5.11 Disclaimer of Warranties. THE FOREGOING WARRANTIES, TOGETHER WITH ANY OTHER WARRANTIES SET FORTH IN THIS AGREEMENT, ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5.12 Assignment of Warranties. If under this Agreement, SKYWARD procures goods or services for the District, SKYWARD shall assign or otherwise transfer to District, or afford the District the benefits of, any manufacturer, licensor or other provider's warranty for such goods and/or services.

## 6. OBLIGATIONS OF THE DISTRICT

6.1 Development Facilities. During the term of this Agreement, the District shall provide SKYWARD's personnel with limited office space and certain other facilities as specifically described in the Statement of Work, subject to compliance by SKYWARD, its employees and permitted subcontractors with all applicable rules of occupancy of such facilities imposed by the lessor to the District of such facilities and all applicable rules, policies and procedures of the District as applied to District employees and other contractors using such facilities. In no event may such facilities be used for any purpose other than performing Services pursuant to this Agreement. Except as expressly provided in the Statement of Work and/or the Pricing Schedule, SKYWARD shall be solely responsible for all other costs associated with its personnel, contractors, software development, computing equipment and other facilities as a specified in the Proposals.

6.2 Staffing. The District shall provide those certain personnel identified in the District Resource Plan to perform the functions therein stated, subject to reasonable coordination with their respective work schedules and responsibilities.

6.3 Testing Platforms. The District shall be responsible for supplying and operating at its expense, the Test Environment, including all hardware and Platform Software (other than software to be supplied by SKYWARD) required for the conduct of preliminary and final acceptance testing as described in the Statement of Work.

6.4 SIS AND ERP Operation. The District shall be responsible for the operation of the ERP in Production, including without limitation, the following:

6.4.1 Installing the Licensed Software and Platform Software in the computing and telecommunications environment required for Production (with the assistance of SKYWARD during the initial release to Production, as well as any update or Upgrade involving a material change in hardware Platform Software that is required to be installed by the District under this Agreement).

6.4.2 Implementing proper procedures to assure security and accuracy of input and output, and restart and recovery in the event of a malfunction.

6.4.3 Establishing proper backup procedures.

6.4.4 Using reasonable efforts in the event of system malfunction to establish temporary operating procedures or work-arounds.

6.5 Installation of Releases. The District shall determine in its sole discretion whether and when to install updates or Releases of the Licensed Software provided such action or inaction will have no impact on the Project schedule. SKYWARD shall not be responsible for activities required for the actual installation of such updates or Releases unless so provided in the Statement of Work. The District shall be responsible for installing any Release from SKYWARD that is reasonably required because of the withdrawal of support by a third party for any Platform Software, state requirements or when such update or Release is required to support SKYWARD's commitment to the Project schedule.

6.6 Proprietary Notices. District agrees that any copies of the Licensed Software and Documentation that it makes pursuant to this Agreement shall bear all copyright, trademark, and other proprietary notices included therein by SKYWARD or the respective third party licensor. District may add its own copyright or other proprietary notice to any copy of the Licensed Software or Documentation that contains modifications made by District in accordance with the terms of this Agreement.

6.7 Indemnity. Except to the extent that SKYWARD has an obligation to indemnify the District under this Agreement, and subject to the monetary limitation set forth in Section 768.28, Florida Statutes the District hereby indemnifies and shall hold harmless SKYWARD, its Board of Directors, officers, employees and agents from and against any claim(s), action(s), costs, fees, expenses, losses and liabilities based on or arising out of any act or omission of the District, its School Board employees or agents or those for whom the District is, at law, responsible. The foregoing indemnity and hold harmless is conditioned on such loss being proximately caused in whole or in part by the negligent or willful act or omission of the District, its employees, or contractors, and conditioned further that nothing herein shall be deemed to require the District to indemnify SKYWARD, its Board of Directors, officers, employees, or agents for or against its own negligent or willful acts or omissions.

6.8 Exception for Third Party Software. Notwithstanding any other provision of this Agreement to the contrary neither the District nor any of its Board members, officers, employees, attorneys and representatives shall be liable to SKYWARD in any fashion or to any extent for any claim brought against SKYWARD by or in the name of any licensor or supplier of Platform Software, based on the District's failure to purchase or maintain licenses to such

Platform Software unless SKYWARD has identified clearly and unambiguously in the Statement of Work the requirement for such licenses and the specific basis of computation of any fees or other charges due such licensor or supplier, such that the amount of such charges is fully known as of the date of execution hereof.

## 7. OTHER OBLIGATIONS OF SKYWARD; INSURANCE & INDEMNITIES

7.1 Compliance with Laws and Regulations. At all times during the term of this Agreement, SKYWARD shall comply with all applicable federal, State of Florida, and local laws and regulations. To the extent applicable, SKYWARD shall ensure that, as of the date of final acceptance of any Deliverable, such Deliverable likewise complies with all federal, State of Florida and local laws and regulations. SKYWARD shall provide District with assistance in complying with all applicable federal, State of Florida, and local laws and regulations. SKYWARD shall be responsible for assuring that the Licensed Software complies with all applicable provisions of federal, state and local laws and regulations respecting the privacy and protection of student, parent, and patient information and that all of its employees and contractors comply individually with all such laws and regulations.

7.2 Staffing and Management. During the term of this Agreement, SKYWARD shall not reassign or modify the operational authority of the management personnel listed in the Scope Management Process without the consent of the District, except (a) upon request by the District, (b) as the result of the termination by SKYWARD of the employment of the affected person, or (c) upon reasonable request initiated by such affected person. SKYWARD shall furthermore refrain from reassigning or reallocating work on the Project if a reasonably foreseeable consequence of such reassignment or reallocation would be to require the repetition of work or delay in the completion of the delivery of any Deliverable. Notwithstanding the foregoing, upon request by the District for a change in such management personnel, SKYWARD shall use commercially reasonable efforts to remove and replace such individual SKYWARD personnel assigned to the Project in a timely fashion.

7.3 Financial Reporting; Audit and Inspection of Records. SKYWARD shall, on an annual basis, provide District with compiled financial information if the District requests it in writing. SKYWARD agrees that until the expiration of five (5) years after expenditure of funds under this Agreement, the District and any of its duly authorized representatives shall have access to and the right to examine any and all directly pertinent books, documents, papers, and records of the SKYWARD involving transactions or containing financial data that is related to SKYWARD's performance hereunder and as related to this Agreement. SKYWARD agrees that payments made under this Agreement shall be subject to reduction for amounts charged that are found on the basis of audit examination not to constitute allowable fees or costs. All required records shall be maintained until an audit is completed and all questions arising from such audit are resolved, or until five years after completion of all work under this Agreement.

7.4 Indemnity. SKYWARD shall indemnify and hold harmless District, all members of the ECSB, and their employees, agents, and attorneys from and against any losses suffered by District as a result of SKYWARD's breach of its warranties set forth in this Agreement, or

arising out of or in connection with SKYWARD's provision of the Services, the Deliverables, or any component or part thereof, or SKYWARD's failure to provide the same, provided, however, the foregoing indemnity and hold harmless is conditioned on such loss(es) being proximately caused in whole or in part by the actions or negligent or willful omissions of SKYWARD, its employees, subcontractors, or anyone employed directly by SKYWARD. Except with respect to SKYWARD's Warranty as set forth in Sections 5.5 through 5.7 hereof, this Indemnification shall not exceed the total amount of all payments made by the District to SKYWARD in the proceeding three hundred sixty five (365) days from the date that the District makes the first payment to SKYWARD under this Agreement. SKYWARD'S indemnification obligations with respect to Sections 5.5 through 5.7 hereof shall be unlimited. SKYWARD also shall defend, indemnify, and hold harmless the District, all members of the ECSB, employees, agents, and attorneys from and against any claim, demand, challenge, suit, loss, cost, damage, or liability based on any assertion that any Deliverable or any component or part thereof infringes, misappropriates, or violates any patent right, copyright right, trade secret, or other proprietary right of any third party. District shall notify SKYWARD in writing of the initial claim or action brought against it. The selection of counsel, the conduct of the defense of any lawsuit, and any settlement shall be within SKYWARD's control; provided that the District shall have the right to participate in the defense of any such infringement claim using counsel of its choice, at the District's expense. No settlement shall be made without notice to the District.

7.5 Use Disruption. If a third-party intellectual property claim causes the use of any Deliverable, any Documentation, or any component or part thereof to be seriously endangered or disrupted, SKYWARD shall, at the option of the District, replace the same without additional charge, by compatible, functionally equivalent and non-infringing product(s); modify such Deliverable, Documentation, or component or part, to avoid the claim or infringement and retain all functionality; obtain license(s) for the District to continue use of such Deliverable, Documentation, or component or part, and pay any additional fee required for such license(s) Nothing in this section shall relieve SKYWARD from any obligation to deliver all material functions of the ERP as required by the Project Documents, nor shall it otherwise limit any other rights or remedies that that the District may have under this Agreement.

7.6 General Insurance Requirements. SKYWARD shall secure and maintain, as a minimum, insurance as set forth below with insurance companies reasonably acceptable to the District to protect SKYWARD from claims which may arise from operations under the Agreement, whether such operations be by SKYWARD or anyone employed by SKYWARD. SKYWARD further shall furnish upon request of the District's Risk Management Department, certificates of such insurance, signed by an authorized representative of the insurance carrier, which shall include a minimum thirty-one (31) day cancellation clause. Failure to maintain the insurance and furnish the required certificates may be considered a breach of the contract by SKYWARD and the District may exercise any, some or all of its rights on breach by SKYWARD.

7.6.1 Workers' Compensation Insurance in accordance with provisions of the Florida Labor Code, adequate to protect SKYWARD from claims under Workers' Compensation Acts which may arise from operations under the contract, whether such operations be by the contractor or anyone directly employed by them. SKYWARD, in submitting this proposal

hereby certifies, pursuant to Section 4.40 of the Florida Labor Code, that it is aware of the provisions of Section 4.40 of the Florida Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions before commencing the performance of the work of this contract.

7.6.2 Comprehensive Bodily Injury and Property Damage Liability Insurance for Combined Single Limit Bodily Injury and/or Property Damage Liability of not less than $1,000,000 each occurrence, $2,000,000 aggregate. The policy so secured and maintained shall include coverage for Contractual Liability, Products Liability or Completed Operations, and Owned, Hired, and Non-owned Automobiles Insurance; and shall be endorsed to name the Escambia County School District and the ECSB as additional insureds and to provide specifically that any insurance carried by the District which may be applicable to any claim or loss shall be deemed excess and the contractor's insurance primary despite any conflicting provisions in the contractor's policy to the contrary.

7.7 Damage to Property. SKYWARD shall be responsible and liable for all damage to the property of the District which is caused by SKYWARD sub-contractors, or their respective employees, during the term of this Agreement and shall, at its own expense, repair and/or replace all damaged property to its original condition.

7.8 Errors and Omissions. SKYWARD shall maintain the following insurance coverage, at its sole expense, sufficient to cover any claims, damages, liabilities, costs and expenses (including counsel fees) arising out of or in connection with SKYWARD's fulfillment of any of its obligations under this Agreement or either party's use of any Deliverable or any component or part thereof: comprehensive general liability coverage; errors and omissions insurance which covers professional errors and omissions of SKYWARD and all professionals who are employees of SKYWARD and are engaged to furnish professional services in connection with the services hereunder. Coverage under each policy will be a minimum of One million dollars ($1,000,000) for each instance and four million dollars ($4,000,000) in the aggregate. Each policy shall be issued by a reputable insurance company qualified to do business in Florida. Upon the District's request, SKYWARD shall ensure that the general liability policy shall name the District, any agency or instrumentality for which the District provides or manages educational services, the members of the Board of Education, and its officers, employees, agents and attorneys, as additional insured. SKYWARD shall provide District with evidence of compliance with SKYWARD's obligations under this Section. In the case of failure to furnish such evidence or upon cancellation of any required insurance, the District may declare a breach of this Agreement or may withhold all future payments until SKYWARD complies with this requirement or may purchase such coverage and offset the cost against any amounts otherwise due to SKYWARD. SKYWARD shall provide thirty (30) days prior written notice to the District of any impending cancellation or termination of such insurance.

## 8. FINANCIAL MATTERS

8.1 Fixed Fee Agreement. SKYWARD will provide all Services, as defined in the Proposals. In the event that the District elects to engage SKYWARD to provide additional Training Services or Data Conversion Services it shall pay to SKYWARD the fee for such Training Services and/or Data Conversion Services so elected, at the rates as negotiated or set forth in the Pricing Schedule, and invoiced on satisfactory completion of such services.

8.2 Payment on Deliverables. For all Licensed Software and Documentation deliverables, The District shall pay to SKYWARD the fees and costs set forth beside the respective Deliverables as defined in Exhibit B.

8.3 Time and Manner of Payment. The District shall pay each amount set forth in the Pricing Schedule on or before forty-five (45) days after its receipt of an invoice for the amount, which invoice shall have been rendered no earlier than the successful completion of the acceptance tests or criteria set forth as a condition of such payment. Payment for hardware deliverables, if any, shall be net forty-five (45) days from the later of invoicing or Delivery to the District. Except in the case of suspension of payments for failure to Deliver Critical Deliverables as provided in this Agreement, in the event the District disputes any amount due under an invoice, it shall nonetheless pay the amount with which it has not dispute and shall use the dispute resolution procedures provided by this Agreement to resolve any such dispute.

8.4 Work Orders. In the event that an authorized representative of the District shall issue a Work Order for Services, Third Party Software and/or equipment under this Agreement, the District shall pay to SKYWARD an amount determined by the time and materials fee schedules under the Pricing Schedule, not to exceed the maximum cumulative amount for Work Orders under this Agreement, as set forth in the Scope Management Process and the Pricing Schedule. Amounts due under this paragraph shall be paid within thirty (30) days after receipt by the District of SKYWARD's statement for the respective Services, itemizing the time and materials expended on the particular Work Order for the month preceding and cumulatively for that Work Order and the aggregate of Work Orders to date.

8.5 Form of Invoicing. Invoices shall itemize services, dates and deliverables consistent with the terms of this agreement. Additional documentation shall be furnished by SKYWARD to the District's Accounts Payable Section upon request. Invoices shall be mailed to:

The School District of Escambia County
Mr. Terry St. Cyr, Assistant Superintendent for Finance and Business Services
75 North Pace Blvd.
Pensacola, Fl 32505

8.6 Change Orders. When quoting a price for a Change Order under this Agreement, SKYWARD shall determine the fee by the process and formula set forth in the Scope Management Process and Pricing Schedule.

8.7 Reduction of Scope. The District may determine to eliminate certain of the Services or Deliverables from the scope of the Project. In such event, the parties shall negotiate in good faith as to an equitable reduction in the applicable prices set forth in the Pricing Schedule.

8.8 Most Favorable Customer. SKYWARD agrees to treat the District as its most favored customer. SKYWARD represents that all of the fees and prices, warranties, benefits, and other terms being provided to the District under this Agreement are equivalent to or better than the fees and prices, warranties, benefits, and other terms being offered by SKYWARD to any other customer for similar services under similar circumstances of similar size in student Full Time Equivalency.

8.9 Suspension of Payments. In the event that any Critical Deliverable shall not be delivered or Accepted on or before the applicable dates specified for such Critical Deliverable, all payment for Deliverables to be delivered subsequent to such delayed deliverable shall be suspended until the acceptance of all Critical Deliverables which have not been timely delivered or accepted. In no event shall the suspension of a payment under this paragraph relieve SKYWARD from any other date for delivery or Acceptance or performance of its obligations hereunder.

8.10 Taxes. SKYWARD acknowledges that the District is exempt from sales and use taxes imposed under Florida law in accordance with Section 212.08(6), Florida Statutes. Except as expressly provided in the Statement of Work, all software Deliverables are presumed to be deliverable solely by electronic transmission and not on tangible media.

8.11 Allowances for Suspension or Delay Caused by District. In the event that the District shall suspend the Project, delay any Deliverable Date, fail to provide resources on a timely basis in accordance with the District's Resource Plan, or fail to respond to a request for review and approval, the following provisions shall apply:

8.11.1 The due date for any Deliverable set forth in the Statement of Work that is dependent on such performance by the District shall be deemed adjusted equitably to allow for the effect of such suspension or delay on SKYWARD's ability to supply or perform such Deliverable, taking into account a reasonable adjustment in assignment by SKYWARD of its resources to provide Deliverables under this Agreement; and

8.11.2 In the event of a suspension of the Project or the delaying of a due date that is not attributable to SKYWARD's failure to deliver a Deliverable that successfully completes a relevant Acceptance Test, SKYWARD shall be entitled to reimbursement for any such costs that cannot reasonably be mitigated by temporary reassignments of personnel or other resources, including without limitation the hourly charges for any SKYWARD personnel necessarily idled by such delays but whose capacity is required to be maintained for timely future performance by SKYWARD, priced as set forth in the Pricing Schedule.

## 9. FORMALITIES, TERM AND TERMINATION

9.1 Approval by the District. This Agreement shall only be effective upon its approval by the ECSB in accordance with applicable law and District policies and procedures, with a budget encumbrance intended to fund performance through June 30, 2012. See Exhibit B. Each fiscal year of the District thereafter, it is expected that the ECSB will consider for allocation the amount set forth in the Pricing Schedule for the respective year of the term of this Agreement ("Fiscal Allocation"). Nothing herein, however, shall be construed so as to require the District to allocate any sums on this Agreement beyond the Initial Allocation.

9.2 Initial Term. The term of this Agreement shall commence on April 1, 2011 contingent upon approval by the ECSB and shall continue thereafter for a period of five (5) years ("Term") subject, however, to availability of lawfully appropriated funds for each District fiscal year and ECSB approval. The Contract may, with ECSB approval, thereafter be renewed for additional periods, unless sooner terminated in accordance with this Agreement. Notwithstanding the foregoing, the terms and conditions applicable to maintenance services shall continue thereafter until the expiration of the year on account of which maintenance services shall have been paid.

9.3 Termination. The District reserves the right to terminate this agreement with ninety (90) days notice prior to the agreement's anniversary each April 1st without penalty or obligation. In the event the District has not purchased the source code, the source code and all documentation will be returned promptly to SKYWARD.

9.4 Termination for Convenience. The District may terminate this Agreement at any time without cause upon a minimum ninety (90) days' notice to SKYWARD, in which case the following provisions shall apply:

9.4.1 The notice may be effective as of a date certain or may apply only after the delivery of certain enumerated Deliverables.

9.4.2 The District shall pay to SKYWARD upon receipt of an invoice from SKYWARD otherwise complying with this Agreement, for any Services in respect of a Deliverable not yet Delivered which have actually been performed by SKYWARD, pro-rated on a percentage completion basis based on SKYWARD's reconciliation of labor actually expended compared to labor originally estimated by SKYWARD in constructing its bid.

9.4.3 The District shall pay to SKYWARD upon receipt of an invoice from SKYWARD otherwise complying with this Agreement, upon Delivery of any Deliverable specified to be delivered under the notice.

9.4.4 No other payments shall be due to SKYWARD.

9.4.5 Source code and all documentation must be returned within 30 days if the termination occurs prior to July 1, 2012. If it is returned Skyward will return a prorated amount based on the payment percentages.

9.5 Failure to Progress. The Statement of Work provides certain Deliverable Dates for the delivery of certain Critical Deliverables identified therein. If Delivery of any Critical Deliverable shall not have been completed by the Deliverable Date for such Critical Deliverable, and such delay is not materially caused by any fault of District or a third party over which SKYWARD does not have the right to control, the District shall give SKYWARD notice providing a period of not less than thirty (30) days to complete Delivery of such Critical Deliverable. In the event that SKYWARD shall fail to complete Delivery of the Critical Deliverable identified in such notice within the stated cure period, the District may, in its sole discretion, thereafter either extend the time for cure, or declare an immediate termination of this Agreement (or Services related to such Critical Deliverable) for Failure to Progress without further payment obligation on the part of the District with respect to the portion so terminated. In the event of a termination for Failure to Progress in accordance with this section, the District shall have no further liability to SKYWARD with respect to any payments not yet due and owing that are related to the portion so terminated and shall be due refund of all "One Time Investment" costs and prorated licensing fees prior to the District's complete acceptance of SKYWARD products.

9.6 Termination for Breach. In the event that SKYWARD commits a material breach of this Agreement, that, if capable of being cured within thirty (30) days, is not cured within thirty (30) days after notice of breach from the District to SKYWARD; commits a material breach of this Agreement which is not capable of being cured within thirty (30) days and fails to proceed promptly and diligently to correct the breach, and cure the breach to the District's reasonable satisfaction within ninety (90) days after receiving notice; or commits a material breach of this Agreement which, by its nature, cannot be cured, then the District may (without limitation on other remedies that may be available to it under this Agreement, at law or in equity), by giving written notice to SKYWARD, terminate this Agreement, in whole or as to selected Deliverables or Services, as of a date specified in the notice of termination.

9.7 Material Breach. For the purposes of the foregoing provision "material breach" shall mean the failure of SKYWARD to perform any material obligation, including without limitation, the following:

9.7.1 Failure to Deliver a Critical Deliverable within the notice period specified for a notice of Failure to Progress.

9.7.2 Chronic failures to deliver Deliverables on a timely basis, without such failures being materially caused by fault of the District, a third party over which SKYWARD does not have the legal right to control, or an event of Force Majeure.

9.7.3 Breach of any warranty given pursuant to Section 5 of this agreement, which breach materially affects the ability of the District to deploy and/or use the ERP.

9.8 Termination for Nonpayment. Except with respect to a payment that is being withheld by the District due to a material breach of SKYWARD'S obligations hereunder about which the District has notified SKYWARD as set forth in Section 9.6, or a payment that the District is withholding due to a Failure to Progress as addressed in Section 9.5 hereof, if the District fails to pay SKYWARD when due any charges under the Agreement within ninety (90)

days after presentation of an invoice and fails to make such payment within thirty (30) days of notice from SKYWARD of the failure to make such payment, then SKYWARD may terminate this Agreement without further notice, provided, however, that such termination shall not relieve the District of its payment obligations to SKYWARD for services rendered and reimbursable expenses incurred through the effective date of the termination. Source Code and Documentation must be returned in thirty (30) days.

9.9 Termination for Bankruptcy. This Agreement may be terminated by either party, without notice, in the event that either Party shall have ceased business, become the subject of an order for relief or insolvent under applicable bankruptcy laws or made an assignment for the benefit of creditors. (Source Code and Documentation will be transferred to the District for complete ownership within thirty days after filing bankruptcy.)

9.10 Payment on Termination. In the event that the District terminates this Agreement or any portion thereof prior to its expiration on any basis other than for SKYWARD's material breach or Failure to Progress, the District shall pay SKYWARD for all Deliverables Delivered prior to the effective date of termination and for partially completed Deliverables on a percentage completion basis. In the case of a termination for Failure to Progress, the District shall continue to be liable for Services not terminated, but shall not be liable for any amounts related to partial completion of Deliverables associated with the Critical Deliverable in question. In the case of a termination for material breach by SKYWARD, the District shall not be liable for any payments on account of Deliverables not delivered as of the effective date of such termination. In no event shall the District be liable for any future payments, lost profits, costs or expenses of SKYWARD, incurred with respect to Services not actually performed.

9.11 Transition on Termination. In the event of a termination of this Agreement, except as otherwise provided, the District shall nonetheless continue to have all rights to use and maintain for its own benefit any and all Deliverables already in Production or completed and delivered as if no termination had taken place, subject to payment for such Deliverables. The right to use the Licensed Software nonetheless shall be subject to full payment of license fees as set forth in the Pricing Schedule. In the case of termination by the District for breach by SKYWARD or for Failure to Progress, SKYWARD shall provide those certain transition services identified in the Statement of Work, subject to payment at the time and materials rates set forth in the Pricing Schedule, and shall promptly assign to the District all of SKYWARD's rights to use Platform Software, which rights were acquired by SKYWARD primarily for the ability to provide the Services to the District under this Agreement, upon payment by the District of any amounts set forth in the Pricing Schedule on account of such Platform Software. In the event of a termination for material breach or for Failure to Progress, the District may thereafter engage such contractor or contractors as it determines in its sole discretion to provide any of the Services not yet provided by SKYWARD to the District or any other services the District determines in its sole discretion to be necessary or convenient to the development, maintenance and operation of the ERP, subject to compliance with provisions of this Agreement relating to the use of contractors to service the Licensed Software.

9.12 Force Majeure. Neither party shall be liable for any delay or failure to perform, to the extent caused by a Force Majeure Event. Upon occurrence of a Force Majeure Event, the

non-performing Party shall be excused from any further performance or observance of the affected obligation(s) for as long as, and to the extent that the Force Majeure Event continues and the non-performing Party continues to perform to the extent practicable; takes commercially reasonable measures to mitigate the effects of the Force Majeure Event; and uses commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. Any Party whose performance is affected by a Force Majeure Event will immediately notify the other Party by telephone (to be confirmed in writing within two (2) business days of the inception of such delay) and describe in reasonable detail the circumstances causing such delay.

## 10. DISPUTE RESOLUTION AND REMEDIES

10.1 Project Managers. All disputes, claims or controversies arising out of or relating to the validity, interpretation, performance, termination, breach, threatened breach of this Agreement, or any Failure to Progress ("Dispute(s)") shall initially be referred by the Party raising the Dispute to the Project Managers designated by the Parties. If the Project Managers are unable through good faith discussions to resolve the Dispute within ten (10) Business Days after receiving written notice of the Dispute, the Dispute shall be submitted to the Senior Executives.

10.2 Senior Executives Resolution. If the Project Managers are unable to resolve the Dispute within ten (10) Business Days after submission by either or both Project Managers, the Dispute shall be referred to the Senior Executives. Each Project Manager will, within ten (10) business days after referral, provide to both of the Senior Executives a Dispute Statement describing in detail the substance of the Dispute and the Parties' respective positions, and supported by such documentation as may be appropriate to acquaint the Senior Executives with the issues. The Dispute Statements will not limit either Party's right to identify additional relevant issues at any time, or waive, prejudice or limit either Party's rights or remedies with respect to any issues. Dispute Statements will be provided without prejudice to the providing Party for settlement purposes, and shall not be admitted in evidence or otherwise used or referred to in litigation. For the purpose of this provision, the Senior Executives shall be the Executive Sponsor for the District and the Group President for SKYWARD. Either party may redesignate its Senior Executive from time to time during the term of this Agreement by thirty (30) days' notice to the other party, provided that once a dispute resolution procedure shall be commenced under this section, neither party may redesignate its Senior Executive without the consent of the other party as long as such Senior Executive remains in the employ of the respective party.

10.3 Mediation. Within ten (10) business days after delivery of the Dispute Statements, the Senior Executives of both parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one party to the other will be honored. If the Senior Executives are unable to resolve the Dispute within twenty (20) business days of receipt of the Dispute Statements, the parties may pursue all claims based upon such Dispute as otherwise provided by law.

10.4 Continued Access. The parties agree as follows with respect to any dispute or disagreement concerning the Licensed Software or component thereof or any of the transactions arising out of or contemplated by this Agreement: during such dispute or disagreement under this Agreement or any proceeding to resolve such dispute, pending final resolution of such dispute or disagreement, SKYWARD shall not interfere with the access or use by the District of the Licensed Software. In addition, the Parties expressly agree that if any dispute or disagreement arises with respect to the performance of any of either Party's obligations which would otherwise delay the schedule for either Party's performance of any of its subsequent obligations, to the extent technically and operationally feasible, each Party shall proceed to the performance of such subsequent obligations according to the existing schedule as if such dispute or disagreement were non-existent, but shall be entitled to reimbursement or relief for delay as set forth in this Agreement.

10.5 Applicable Law. This Agreement shall be construed in accordance with and governed by the substantive law of the State of Florida.

10.6 Jurisdiction. The parties consent to the exclusive personal jurisdiction of the Court of the County of Escambia or the United States District Court for the Northern District of Florida (Pensacola) for the purpose of any and all judicial proceedings authorized under the terms of this Agreement.

10.7 Limitation on Liability. The liability of the District to SKYWARD from all causes, except for the District's gross negligence or willful misconduct relating to its obligations under this Agreement or the intentional unauthorized use or disclosure of confidential information, shall not exceed the amount of the Fiscal allocation for the fiscal year then in process, less any amount that have theretofore been paid to SKYWARD out of such Fiscal Allocation. Except with respect to SKYWARD's Warranty as set forth in Sections 5.5 hereof, the liability of SKYWARD to the District from all causes shall not exceed the total amount of payments made by the District to SKYWARD for three hundred sixty five (365) days from the date that the District makes the first payment to SKYWARD under this agreement. SKYWARD shall have no liability for any claim of copyright or patent infringement based upon the use of other than a current unaltered Release that SKYWARD has requested the District to install, as set forth in this Agreement, if the alleged infringement would have been avoided by the use of such current unaltered Release.

## 11. MISCELLANEOUS PROVISIONS

11.1 Publicity. Neither party shall make issue or distribute a public statement announcing the existence of this Agreement or the Services except with the consent of the other party, which consent shall not be unreasonably withheld or delayed. Upon the later of the execution of this Agreement or its approval by the ECSB, the parties shall confer and agree as to the information to be disclosed in press releases announcing the Agreement. Notwithstanding the foregoing, the Parties shall be entitled to discuss the Project publicly at any time after its submission for approval by the ECSB in connection with obtaining such approval, any hearings thereon, of any requests by members of the public or media and SKYWARD shall be entitled to

discuss the Project with potential customers and to disclose its existence in customer proposals. Either party shall be entitled to make such reasonable disclosures as are required by law, including without limitation any disclosures required for compliance with the Securities Laws of the United States or any state, of any licensing entity, and the like.

11.2 Solicitation of Employees. During the term of this Agreement and for a period of one (1) year thereafter, neither Party shall solicit any employee of the other to work for such Party, provided that nothing herein shall preclude a Party from hiring an employee of the other Party who has responded to general advertising or general employment programs solicitation of such Party.

11.3 Entire Agreement. This Agreement, including its Exhibits and Schedules and the documents incorporated by reference herein, constitutes the sole and entire understanding and agreement of the parties with respect to its subject matter, and supersedes and replaces all prior agreements, representations and understanding of the parties.

11.4 Amendment. This Agreement may not be amended or modified, except by an Agreement signed by duly authorized officers of the respective parties and, in the event applicable law requires the action of the ECSB to amend the subject provisions hereof, the due approval of such amendment by the ECSB.

11.5 Severability. In the event that any portion of this Agreement shall be deemed unenforceable by any dispute resolution tribunal, the remainder of the Agreement shall remain in full force and effect.

11.6 Assignment. This Agreement may not be assigned by SKYWARD without the written consent of the District, except in connection with the sale of substantially all of the assets of the operating unit of SKYWARD responsible for the PaC Software and may not be assigned by the District without the consent of SKYWARD. An assignment of rights to receive monies due and becoming due given as security for payment of a SKYWARD institutional debt shall be permissible upon thirty (30) days prior notice to the District. Any assignment in contravention of this provision shall be void and no assignment shall relieve the assignor of any obligations under this Agreement. This Agreement shall be binding upon the Parties hereto their respective successors and assigns.

11.7 Headings and Captions. The captions and headings used in this document are for convenience of reading only and are not to be used in the interpretation or construction of this Agreement.

11.8 Reasonable Behavior. The parties shall deal with one another in good faith. Whenever this agreement requires or contemplates any action, decision, consent or approval, the parties shall act reasonably and in good faith and (unless the parties have expressly agreed in writing to some other discretionary standard) and may not unreasonably withhold or delay any such action, decision, consent or approval.

11.9 No Third Party Beneficiaries. Nothing herein contained is intended to constitute any person a third party beneficiary under this agreement, nor to create any obligation on the part of either party to any person who is not a party to this Agreement.

11.10 No Partnership or Agency. Nothing in this Agreement shall be deemed to constitute either party the agent, joint venture, or partner of the other for any purpose and neither party shall be authorized to bind the other legally in any form.

11.11 Survival. Sections 2.3, 6.6, 6.7, 7.4, 9.10 and 9.11 of this Agreement shall survive the expiration or termination of this Agreement.

11.12 Notices. Any notices required or permitted under the terms of this Agreement shall be in writing and shall be effective upon receipt, or five (5) days after mailing, postage prepaid, certified, and returns receipt requested, addressed to the parties as follows:

TO THE DISTRICT:

Superintendent of Schools
School District of Escambia County
75 North Pace Blvd.
Pensacola, FL 32505

With a copy to:

Assistant Superintendent for Finance and Business Services
School District of Escambia County
75 North Pace Blvd.
Pensacola, Fl 32505

TO SKYWARD:

Jerry J. King
Vice President - Finance
Corporate Office
SKYWARD, Inc.
5233 Coye Drive
Stevens Point, WI 54481

With a copy to:

General Counsel
SKYWARD, Inc.
5233 Coye Drive
Stevens Point, WI 54481

Either party may from time to time substitute a new address or addresses for notices by delivery to the other party of a notice complying with this paragraph. This notice procedure relates to provisions of this memorandum and is not intended to override or replace provisions of the Statement of Work or Scope Process related to operational communications during the term of this Agreement.

11.13 Non-Waiver of Timely Performance. Each party hereto may specifically waive any item(s) of performance under this Agreement by the other party, provided that no such waiver shall be binding or effective unless in writing and no such waiver shall constitute a continuing waiver of similar or other items of performance. A waiving party, at any time, and upon notice given in writing to the party whose performance has been waived, may direct future compliance with the waived term or terms.

11.14 Counterparts. This agreement may be executed in duplicates and counterparts, each of which shall be effective as an original for all purposes.

**IN WITNESS WHEREOF**, the parties have executed this Agreement, effective as of March 15, 2011.

SCHOOL BOARD OF ESCAMBIA COUNTY

_____
Gerald W. Boone, Chairman

_____
Date

ATTEST:

_____
Malcolm Thomas, Superintendent

_____
Date

SKYWARD, INC.

_____
Cliff King, Chief Executive Officer

_____
Date

APPROVED FOR LEGAL CONTENT
FOR March 2011 AGENDA

FEB 19 2011

GENERAL COUNSEL
ESCAMBIA COUNTY SCHOOL BOARD

EXHIBITS:

A: Statement of Work for Configuration, Installation and Deployment

B: Pricing/Payment Schedule

C: Maintenance Services Schedule

D: Scope Management Process for Configuration, Installation and Deployment

E: Statement of Work - ISCorp

# Exhibit A

Statement of Work for Configuration, Installation and Deployment

THIS STATEMENT OF WORK describes the work and Deliverables to be provided by SKYWARD, Inc. ("SKYWARD") to the School Board of Escambia County (ECSB) Florida under that certain Software Services and License Agreement between the Parties dated March 15, 2011 ("Agreement"). The capitalized terms used in this Statement of Work shall have the meanings set forth in the Agreement.

## PROJECT OVERVIEW AND INTRODUCTION

## 1. INTRODUCTION

**1.1 Scope.** ECSB has selected SKYWARD's software to be implemented as the basis for its ERP Information System. ECSB has engaged SKYWARD as the prime vendor to implement the software. The ERP Project will implement the SKYWARD'S software package in a cooperative effort between ECSB and SKYWARD and will be carried out in five (5) major Phases, as follows:

- Project Initiation
- Fit/Gap Analysis;
- SKYWARD's Readiness;
- Deployment for Escambia County School District (ECSB) schools;
- Project Closeout

SKYWARD shall build and expand upon the functionality that is already incorporated in the existing Skyward's software application as needed to meet the Specifications for the new ECSB ERP System.

ECSB and SKYWARD will approach this project as a cooperative implementation, rather than custom development effort, in order to minimize the software change and development efforts required for the project. In this regard, both parties agree that the primary design objective for this project is to use the functionality that already exists in the SKYWARD ERP application rather than to substantially modify this functionality. Nonetheless, SKYWARD is solely responsible for the design and implementation of the ECSB ERP in a manner such that the ECSB ERP functions in accordance with the Specifications in all material respects. This understanding serves as the basis for the work plan and budget that has been proposed and accepted for this project.

The Statement of Work, Project Work plan, SKYWARD resource allocations, and ECSB Resource Plan have been structured to help accomplish this overall vision.

SKYWARD shall provide all Services and Deliverables required under this Statement of Work with respect to the installation, customization, configuration, testing, training and maintenance of the ECSB ERP, except for those responsibilities allocated to ECSB under this Statement of Work, all for

the fixed price set forth in the Agreement and the Pricing Schedule (to be determined during Contract Negotiations.).

**1.2 ECSB ERP Objectives**. The ECSB ERP Project has been initiated by the ECSB, and with SKYWARD as its primary Contractor for the Project, will develop and implement a comprehensive, "state of the art," school information system. The parties acknowledge that the key objectives for the ECSB ERP are as follows:

**1.2.1** Provide for compliance with the requirements set by the Florida Department of Education (FLDOE) and the Federal Government for reporting of financial data that is administered by the Florida Department of Education and/or Federal Government.

**1.2.2** Provide the framework to address additional requirements beyond the scope of this contract through an effective scope management process.

These goals provide a starting point for defining the objectives set for this Project. It is understood that additional objectives may be identified during the initial phase of the project as the ECSB and SKYWARD work together to refine the vision for an integrated school information system.

**1.3 SKYWARD Responsibilities.** SKYWARD shall provide the following Services:

**1.3.1** Building, revising as necessary, and maintaining a single, comprehensive Project Work Plan in collaboration with the ECSB ERP Project Manager (PM).

**1.3.2** Providing functional and technical knowledge of SKYWARD's ERP software.

**1.3.3** Providing the ECSB with a FLDOE/Federal-compliant ERP software and assisting the ECSB in implementing.

**1.3.4** Providing Consultation and Assistance on the development of site-specific business rules and providing Florida-specific templates for consideration by the ECSB.

**1.3.5** Providing Consultation and Assistance on business processes and "best practices" in the use of SKYWARD's ERP software and assisting with planning an ECSB-wide Organizational Change Management program.

**1.3.6** Configuring SKYWARD's ERP software in accordance with the approved Product Plan and associated Configuration/Specification Documents.

**1.3.7** Documenting application configuration selections and providing training to District application administrators on the methods and consequences of making application configuration changes related to site-specific business rules.

**1.3.8** Designing, building, testing, and verifying new modules, functions, and capabilities for SKYWARD's ERP software.

**1.3.9** Designing, building, testing, and verifying the interfaces from SKYWARD's ERP software and any ECSB Third Party Software packages and services. For any non Skyward products, ECSB will pay Time and Materials for the designing, building, testing, and verifying of new third party interfaces.

**1.3.10** Supplying and deploying a web-based compliant release of the SKYWARD's ERP software system on an District-wide basis, with the features required herein in connection with the deployment of the implementation phase of the Project.

**1.3.11** Recommending an electronic project management system for management and communication during the Project that is acquired by ECSB.

**1.3.12** Developing the data conversion programs to load the data provided by ECSB into SKYWARD's ERP software.

**1.3.13** Assisting in defining and testing of conversion programs to and from existing legacy systems.

**1.3.14** Leading and collaborating with ECSB on data conversion activities and assisting ECSB in verifying the accuracy of data following conversion.

**1.3.15** Transferring technical knowledge of the SKYWARD's ERP software to the ECSB project team members.

**1.3.16** Designing and developing ECSB training programs, including course materials.

**1.3.17** Delivering training, as specified for District technical staff and facility/school personnel as set forth in the approved Training Plan.

**1.3.18** Providing Consultation and Assistance to ECSB, within the ECSB hardware architecture environment, in the evaluation of alternative technical platforms, including hardware, systems and operating software, database management software, and application support software.

**1.3.19** Developing specifications for the technical platform selected by ECSB, within the architected framework, including hardware, systems and operating software, database management software, and application support software.

**1.3.20** Testing of interfaces during unit and integration testing. SKYWARD is responsible to develop the interfaces for State and Federal legislative requirements. This includes State DOE reporting, Federal requirements as dictated by the Skyward User Group and Bank interfaces for direct deposits.

**1.3.21** Defining and overseeing systems integration and performance tests for each release of SKYWARD's ERP software as part of the operational integration and deployment process.

**1.3.22** Facilitating ECSB's systems integration and performance tests by collaborating with ECSB in its review.

**1.3.23** Assisting in developing production support processes for problem management.

**1.3.24** Assisting in developing systems operations procedures and processes, including tuning and capacity planning.

**1.3.25** Providing Consultation and Assistance in planning for the deployment of each new release of the SKYWARD's ECSB ERP software in the ECSB operating environment.

**1.3.26** Providing Level 3 post Production support, as defined in the Maintenance Service Schedule.

**1.3.27** Providing Level 2 assistance during each deployment phase.

**1.3.28** Providing project leadership and responsibility, with ECSB, for managing the Project. Conducting quarterly Project Status Reviews to assure the Project is making adequate progress towards meeting contract requirements.

**1.3.29** Providing non-District contact information (SKYWARD email address, SKYWARD telephone number, pager numbers, and mobile phone numbers).

**1.4 ECSB Responsibilities.** ECSB shall provide the following support, services, and facilities during the term of the Project as further set forth in this Statement of Work:

**1.4.1** Coordinating with SKYWARD in building, revising as necessary, and maintaining a single, comprehensive Project Work Plan.

**1.4.2** Ensuring executive sponsorship, knowledge of existing systems, knowledge of ECSB's functional requirements, and with SKYWARD project management.

**1.4.3** Collaborating and cooperating with SKYWARD to accomplish the objectives of the Project through providing the resources set forth in the ECSB Resource Plan (to be determined during Contract Negotiations).

**1.4.4** Providing timely review and approval of project Deliverables and timely resolution of project issues.

**1.4.5** Describing the processes and procedures ECSB uses to manage school information.

**1.4.6** Testing, and verifying interfaces from the ECSB legacy systems or any third party packages licensed directly by ECSB and not provided under this Contract.

**1.4.7** Administering the SKYWARD's security and authorization functionality in Production.

**1.4.8** Assisting in developing end user training material.

**1.4.9** Assisting in delivery of training for facility/school personnel.

**1.4.10** Planning and conducting organizational change management activities, such as modifying business processes; building and delivering project communications to interested stakeholders; negotiating with collective bargaining units for changes in collective bargaining agreements where appropriate and practicable; and developing process improvement and efficiency measures and metrics.

**1.4.11** Determining, installing, and maintaining site-specific business rules.

**1.4.12** Providing assistance in system development and System Testing.

**1.4.13** Reviewing and approving the design and execution of integration and performance tests specifically tailored to address technical issues in the ECSB environment.

**1.4.14** Ensuring that the telecommunications network is appropriately configured, sized, and functioning properly.

**1.4.15** Acquiring, implementing, and maintaining all components of the Technical Platform as specified by SKYWARD in the Specifications and subsequently the Product Plan.

**1.4.16** Maintaining all systems software (*e.g.*, operating systems, DBMS, etc.) as well as application development software at supported release levels.

**1.4.17** Providing facilities and required infrastructure for training ECSB staff.

**1.4.18** Providing facilities and Test Environment infrastructure for testing of releases of the software provided by SKYWARD.

**1.4.19** Completing final acceptance testing for each release of the software and Deliverables.

**1.4.20** Cleansing and extracting relevant existing data from legacy systems and providing it in a SKYWARD specified format for conversion.

**1.4.21** Working with SKYWARD to verify data accuracy following conversion.

**1.4.22** Operating the ECSB ERP in the Production environment.

**1.4.23** Providing a Skyward trained production help desk for both Level 1 and Level 2 support as defined in the Maintenance Service Schedule.

**1.5 Scope Management.** There shall be no changes in the Services or Deliverables, except as expressly adopted by the Parties pursuant to the Scope Management Process attached to the Agreement as Exhibit D.

**1.6 Additional Definitions.** The following additional definitions shall apply throughout this Statement of Work:

**1.6.1 "Baseline SKYWARD's ERP software"** the then current release of the SKYWARD's software at the time of Project Initiation, based on the regular SKYWARD product development schedule.

**1.6.2 "Consultation and Assistance"** advice and examples provided by one party to another to help the responsible party complete its assigned activities, tasks, and deliverables.

**1.6.3 "FTP Site"** the site maintained by SKYWARD from which ECSB may download software and Documentation deliverables to machines under the control of ECSB.

**1.6.4 "Health Check"** a process for evaluating and assessing the status of a project that includes project planning, monitoring and control, communication, customer issues, and people management.

**1.6.5 "Integration Testing"** the testing of the relationships of the individual ECSB ERP modules, components, services, or deliverables to one another, including the relationships of the ECSB ERP to the ECSB technology infrastructure.

**1.6.6 "Product Plan"** a complete mapping of the ECSB functional and technical requirements to the SKYWARD's ERP software Release Schedule, together with the deadlines and other dates, as developed as part of the Fit/Gap Analysis and finalized as the detailed features and characteristics are detailed in the configuration and specifications for each SKYWARD's ERP software Release.

**1.6.7 "Project Work Plan"** – a schedule of the individual tasks to be performed by the respective Parties during the Project, including fixed and dependent times, personnel and resources required from the respective Parties.

**1.6.8 "System of Record"** – a system which is the authoritative source for reporting of ECSB's official information regarding student records for all facilities/schools.

**1.6.9 "System Testing"** shall mean the testing of multiple components.

**1.6.10 "Technical Platform"** the combination of hardware and Platform Software within the ECSB architected framework or ECSB contracted hosting provider (Exhibit E), reasonably required for the proper operation of the ECSB ERP.

**1.6.11 "Test Environment"** the configuration of hardware and software as set forth in Section 4.1 and operated by ECSB for the purpose of conducting Integration and Acceptance Testing of software deliverables and protocols under this Statement of Work.

**1.6.12 "Unit Testing"** the testing of an individual ECSB ERP module, component, service, or deliverable.

**1.7 SKYWARD's ERP software Modules and Services.** The Project Implementation will include the following SKYWARD ERP software modules and services:

**1.7.1 Base ERP Management System** includes; Budgetary, Payroll, Human Resources, Budget Preparation, State chart of accounts, Accounts Payable, Vendor Master, General Input, Purchasing, Account Management, Personnel Profile, Time Off, Data Mining, Retirement Processing, Payroll Processing, Payroll Reporting, Contracts, E-Commerce, ACH Direct Deposit.

**1.7.2. Add on Modules**: Automatic Check Reconciliation, Accounts Receivable, Employee Access, Esign, Fast Track, Fixed Assets, Inventory, Salary Negotiations, Substitute Tracking, True Time.

**1.7.3 Data Warehouse** including a license for four (4) processors & unlimited RAM.

**1.7.4 Schools Interoperability Framework (SIF) Agent.**

**1.7.5 Florida / Mandatory Enhancements.** Skyward agrees that all enhancements developed in conjunction with any current or future Florida customer of Skyward's ERP products shall be provided at no additional charge to the ECSB as long as they are not to be sold to the user base as a new module. Furthermore, mandatory changes as necessitated by the FLDOE (Florida Dept Of Education)/Federal Government shall be included in the paid maintenance cost of the product and provided on a timely basis and at no additional charge to the ECSB.

**1.7.6 System Interface**. Skyward shall provide Consulting and technical support and assistance to interface to third party software solutions including for a fee:

**1.7.7 Electronic Delivery Protocols.** All deliveries of SKYWARD's ERP Software and Documentation required under the Agreement shall be transmitted electronically and not by the delivery of any printed or tangible medium, in accordance with the following protocols:

> **1.7.7.1** SKYWARD shall establish on a computer under its direct control not owned or otherwise controlled by ECSB, an "FTP Site," in which all of such Deliverables are stored in digital formats.

**1.7.7.2** The FTP Site shall contain, at the minimum, a repository of the SKYWARD's ERP software, including error corrections, Updates and Releases to be delivered under this Agreement, indexed with release dates and other descriptive information about each Release.

**1.7.7.3** Delivery shall be accomplished by causing the Test Environment computing hardware to access the FTP Site over the public Internet, and request the transmission of all applicable modules for storage in the Test /Production Environment, so as to create a duplicate of the repository in the Test/Production Environment.

**1.7.7.4** Release to Production shall take place as described in this Statement of Work.

**1.7.8 Third Party Software.** Third party software may be utilized as part of the total SKYWARD's ERP software ECSB School Information System solution. Unless specified in this Statement of Work to be supplied by ECSB at District expense, SKYWARD shall be responsible for supplying the SIF agent and/or ODBC driver.

## 2. SPECIFIC RESOURCES TO BE SUPPLIED BY ECSB

**2.1 Personnel.** ECSB shall provide, at District expense, those certain staff and employees needed for the purpose of managing the Project and performing the activities required of ECSB.

**2.2 Facilities.** ECSB shall provide and operate (to the extent required) the following physical resources at District expense in support of the Project:

**2.2.1** Facilities and infrastructure for personnel assigned pursuant to Section 2.1 above.

**2.2.2** A Test Environment, consisting of the hardware and software described in Section 4 of this Statement of Work.

**2.2.3** A host computer (which may be the test computer), if necessary, or a third-party hosting arrangement for the operation of the Electronic Project Management Office software selected by the Parties.

**2.2.4** Data telecommunications means suitable to the development of the ECSB ERP, by which deliverables may be received electronically by ECSB.

**2.2.5** Limited space to be temporarily used by SKYWARD employees when their presence is required in connection with testing and configuration of the Deliverables.

**2.2.6** Facilities for the co-location of the SKYWARD Project Management team with ECSB facilities.

**2.2.7** All facilities, equipment, Platform Software, telecommunications services and other items required for the operation of the ECSB ERP in Production.

**2.2.8** All facilities and infrastructure to accommodate training.

Except as expressly set forth above, SKYWARD shall be responsible for leasing or otherwise acquiring all office space, computing equipment, telecommunications equipment and services, supplies and other facilities required by SKYWARD in order to perform the Services.

## 3. PROJECT MANAGEMENT

**3.1 Project Management Generally.** The Project will be managed through active cooperation and communication between the Parties and the formation of working teams consisting of District Personnel and SKYWARD staff designated under this Statement of Work to support the Project.

**3.2 ECSB Project Management Personnel.** ECSB will assign a Project Manager ("ECSB PM"), associated with the Information Technology Department who shall be available to manage the project. Participation at the local facility/school level will be managed and controlled by the ECSB PM. Other staffing shall be in accordance with the ECSB Resource Plan and Project Work Plan developed by the Parties.

**3.3 SKYWARD Project Management Personnel.** SKYWARD shall designate a Project Manager, who shall be available to manage the Project. Such person may alternate physical presence between facilities of ECSB and SKYWARD's offices at which SKYWARD is doing the work required under this Agreement. Other staffing shall be consistent with the Project Work Plan developed by the parties. SKYWARD will also designate additional staff to support the project that will be co-located to provide leadership in the various technical areas of the Project. Such individual(s) shall be highly expert and have demonstrable experience in logistic coordination of highly complex software development and deployment projects.

**3.4 Steering Committee.** ECSB will appoint and convene a Steering Committee consisting of senior level executives. The Steering Committee shall meet at intervals set forth in the Project Work Plan to review the project and coordinate the activities of the Parties.

**3.5 Issue Resolution Process.** In the event that there are differences of opinion or delays in responses by either Party in connection with Project Management activities or as generally invoked in accordance with the Agreement, the SKYWARD service call process will be used, including the levels of escalation.

**3.6 Electronic Project Management.** SKYWARD will recommend project management software product(s) ("Project Management Software") for ECSB to install in a computing

environment under the control of ECSB. The Project Management Software shall, at the least provide the following features:

**3.6.1** Enter information about all personnel and other resources required for the Project at each stage of the Project.

**3.6.2** Assignment of Resources to each task and Deliverable.

**3.6.3** Identification of task dependencies.

**3.6.4** Monitoring of progress on each task.

**3.6.5** Identification of personnel and resources that are current pacing items.

**3.6.6** Tracking of actual and budgeted expenditures.

**3.6.7** Identification of each version of SKYWARD's ERP software and the status of development, testing, and deployment.

**3.6.8** Identification of all reported faults or defects in software and the status of efforts to correct such faults or defects.

**3.6.9** A common repository of all Change Requests and Change Orders and a list of sections affected.

**3.7 Reporting.** During the entire term of the Project, SKYWARD shall provide the district a secured web site where personnel can review all outstanding issues, updated programs, releases and documentation.

**3.8 Management Meetings.** SKYWARD's managers and their District counterparts shall meet via video conference, phone or at ECSB office if requested by either party. It is expected that weekly project status meetings and monthly executive steering committee meetings will be held.

## 4. ESTABLISHMENT OF TESTING ENVIRONMENT AND TESTING PROTOCOLS

**4.1 District Facilities.** Within 30 days after the completion of the fit/gap analysis phase, ECSB will provide the following equipment, operating system and other Platform Software, on premises under ECSB's control for the purpose of establishing a Test Environment for testing software deliverables prior to release to production:

**4.1.1** Test Server and the Progress DBMS software installed.

**4.1.2** A Disk Subsystem configured to accommodate initial data load requirements for the ECSB school deployments.

**4.1.3** Backup Data Center Server.

**4.2 Pre-Delivery Test Requirements.** Prior to Delivery to ECSB of any subsequent software release, SKYWARD shall conduct tests of the respective Deliverable to assure its compliance with requirements for such Deliverable, including unit testing and System Testing.

**4.3 Minimum Test Criteria.** Unless otherwise expressly agreed in this Statement of Work or the Specifications no Software Deliverable need be accepted by ECSB in connection with any deployment phase unless it passes at least the following tests:

**4.3.1 Unit Testing.** SKYWARD shall provide reports of satisfactory pre-delivery unit testing. That is, SKYWARD shall test all system components, customizations, interfaces, etc. that are coded or modified, as individual units, prior to incorporating these components into the Test Environment. These tests shall be done by SKYWARD's unit test standards and processes, and shall be consistent with industry best practices.

**4.3.2 Functional Compliance.** The Deliverable shall perform all functions strictly in accordance with the Product Plan and Configuration/Specification Deliverables.

**4.3.3 Integration Testing.** The Deliverable shall work properly in connection with all other ECSB ERP and ECSB technical infrastructure components as specified in the Product Plan. District must notify in writing of any and all changes to the network, 3rd party application software, Operating systems or any other software or hardware that may have a negative impact on the Deliverable.

**4.3.4 Regression.** No modification shall adversely affect the accuracy of any previously operational feature of the system.

**4.3.5 Production Test.** The test criteria for the acceptance test will be defined as part of the project plan. Considerations should be given to full load simulation and length of time for continuous running without errors.

**4.4 Testing Configuration.** SKYWARD will provide Consultation and Assistance to the ECSB in the installation and configuration of the Test Environment so as to (a) permit the realistic simulation of the Production Environment for the purpose of testing any, some, or all of the software Deliverables, and (b) permit identification and correction of errors and inefficiencies determined during testing, and (c) permit the pre-assembly of an operational system to support migration of new releases, patches and other modifications and enhancements to the Production Environment once they have passed acceptance tests.

**4.5 Test Database.** ECSB shall extract a set of financial record information of its choosing ("Test Database") from its existing records of the requisite types in the format specified by SKYWARD for data conversion and make it available for import into the Testing Environment. Such Test Database shall not be copied or removed from facilities under the direct control of ECSB and may only be exposed to SKYWARD employees and SKYWARD's subcontractors who are subject to the confidentiality obligations and security protocols otherwise imposed by the Agreement and this Statement of Work. Due to additional conversions being requested, ECSB will pay time and materials if additional conversions outside of the standard Skyward conversion scope.

**4.6 Test Scripts.** At least 15 Business Days prior to the due date for each software Deliverable, SKYWARD shall deliver a proposed sequence of data and operational procedures ("Test Script") to be used to verify the accuracy and reliability of the Deliverable. ECSB shall review such proposed Test Script and make such additions and changes as it reasonably deems appropriate. The Test Script as edited and agreed to by the Parties shall be used to conduct the applicable acceptance tests for such Deliverable.

**4.7 Software Acceptance Testing.** All acceptance testing protocols shall at the minimum verify that the modules being tested meet the definitions of the Skyward documentation. Upon the Delivery of each software Deliverable and the approval of applicable Test Scripts, ECSB shall conduct tests within 10 Business Days of receipt of the applicable Deliverable in the Test Environment with requested Consultation and Assistance from SKYWARD. ECSB shall determine in accordance with the provisions of the Agreement if the results of such acceptance tests are satisfactory to indicate conformity with the Product Plan and Configuration/Specification Deliverables in all material respects.

**4.8 Faults or Defects.** In the event that the software Deliverable fails to meet the standards set for Acceptance Testing, ECSB shall itemize the Faults or Defects, and SKYWARD shall perform such root cause analysis and other procedures to isolate the problem, develop corrections as soon as practicable, and rerun the applicable portions of the tests and such of the other tests as ECSB determines to repeat to ensure the faults have been corrected. The process of fault detection, analysis, correction, and retest shall continue until the applicable Deliverable has successfully passed the acceptance test.

**4.9.1 Releases to Production.** Deliverables that have passed the designated acceptance tests shall be migrated to the Production Environment in accordance with the mutually agreed upon migration procedures, provided that ECSB's Project Manager has given written approval.

## 5. DATA CONVERSION/DATA CONVERSION SERVICES

**5.1 Data Conversion Generally.** SKYWARD shall provide the mechanisms for converting or importing data and formats specified by SKYWARD proposals. To the extent practicable, ECSB will use the same tools and processes for data conversion as are used for interfaces and data integration employed by the ECSB ERP.

**5.2 Responsibilities of ECSB.** ECSB will be responsible for all cleansing, extracting, running conversion verification reports and providing in the SKYWARD specified format, the data to populate the ECSB ERP.

**5.3 Testing of Conversion Databases.** For the purpose of accomplishing the conversion required to migrate systems to Production, at least 15 days prior to the scheduled migration, SKYWARD shall cause a test of the conversion in the Test Environment, verifying that the conversion programs are reliable and accurate and will not interfere with the necessary operation of the Production Environment. The Parties will work cooperatively to confirm the accuracy of the data and to perform manual corrections in the Test Environment. ECSB has the ultimate responsibility for all verifications of all converted data.

# 6. TRAINING

## 6.1 Development of Training Program

**6.1.1** In accordance with the Project Work Plan, SKYWARD shall design and develop the Training Plan, comprised of training curriculum and training materials for each phase of the ECSB ERP implementation, i.e. ECSB District Office, high schools, K-8, middle and elementary schools. Training will be based upon a 3 billable consecutive days per Skyward trainer. If less, it must be mutually agreed upon by Skyward and ECSB.

**6.1.2** SKYWARD will provide training for ECSB Technical Staff identified in the ECSB Staffing Plan to facilitate the transfer of knowledge for operation, technical support, help desk support (Levels 1 and 2 and specified in the Maintenance Service Schedule), and software maintenance (installation, testing, and deployment of new SKYWARD's ERP software Releases). Once SKYWARD has delivered the initial technical training as specified in the Training Plan approved by ECSB and within the constraints of the Level of Effort set forth in the approved Project Work Plan, ECSB will be responsible for ongoing training of technical staff.

**6.2 Training District End Users.** SKYWARD will provide training for ECSB End Users in accordance with the Training Plan approved by ECSB and within the constraints of the Level of Effort set forth in the approved Project Work Plan. After the SKYWARD completes the "go-live" training, ECSB will assist SKYWARD to provide retraining, additional training, supplemental training, and training for new school staff in the event of employee turnover, changing job assignments, and the like.

**6.3 Responsibilities of ECSB.** ECSB is responsible for providing qualified staff that will become ECSB ERP trainers in accordance with the ECSB Staffing Plan, the approved Project Work Plan, and the Training Plan accepted by ECSB. ECSB will assume the primary training responsibility for the new ERP after initial deployment in accordance with the ECSB Staffing Plan, the approved Project Work Plan, and the Training Plan accepted by ECSB, with SKYWARD providing Consultation and Assistance. ECSB shall also audit classes to assure consistent quality of training delivery across ECSB. ECSB will be responsible for providing retraining, additional training, supplemental training, and training for new school staff for all schools in the event of employee turnover, changing job assignments, and the like.

**6.4 Adjustment of Plan.** The Training Plan will be based on the accepted Product Plan and will focus on the changes to ECSB's student records administration business processes within the context of the ECSB ERP implementation. The Training Plan will be adjusted based on the detailed Configuration/Specification deliverables developed for SKYWARD's ERP software release as well as the "lessons learned" during the rollout of the ERP.

**6.4.1** Wherever practical and unless mutually agreed to otherwise by Skyward and ECSB, onsite training shall be conducted on a block schedule of 3 consecutive days to minimize training costs,

**6.4.2** If any training class is anticipated to have more than fifteen (15) participants, ECSB shall provide a training proctor or assistant to assist with the training activity.

## 7. ORGANIZATIONAL CHANGE MANAGEMENT

**7.1 Organizational Change Management Requirements.** In addition to determining the functional and technical requirements that will best meet the needs of ECSB in this project, it will also be important for ECSB to consider the organizational change management requirements for the new system. These include the extent to which changes need to be made in existing operating practices and procedures to accommodate and support the new ERP system. It also includes any staff issues or concerns that have to be included in the training for this project, in order to help staff accept and use the new system.

**7.2 District Responsibility. ECSB** has the responsibility for organizational change management with Consulting and Assistance from SKYWARD. The change management needs for the project will be addressed in at least two key ways, as highlighted below.

**7.3 Initial Organizational Change Management Readiness Review.** As a first step, ECSB will conduct a formal change management readiness review and complete the same by the conclusion of the fit/gap analysis phase of the Project, focusing on such issues as:

**7.3.1** The extent to which staff currently use automation and are ready to work with and accept the level of technical functionality planned for the new ECSB ERP system.

**7.3.2** The extent to which adequate data input processes and procedures are in place to support the data input requirements for the new system.

**7.3.3** The extent to which current work methods, practices, and procedures support the way the new system is designed to work in the administrative setting.

**7.3.4** The extent to which staff will have to change their current operating practices to best use the new system.

**7.3.5** The extent to which any staff resistance can be expected as the new system is implemented, and the best ways to address this potential resistance in the training planned for the new system.

**7.3.6** The extent to which current hardware may hinder acceptability of the new system. This information will be useful for finalizing the training requirements and curriculum for the new system. It will also be useful for determining the extent to which changes need to be made in existing work methods, practices, and procedures. The ECSB staff assigned to this project will be responsible for completing all change management reviews and interviews. ECSB is responsible for the collection of the information. SKYWARD will provide assistance to ECSB in interpreting the results of this review effort.

**7.4 Continuing Organizational Change Management Perspective.** SKYWARD will consider the ECSB organizational change management needs for this project as a formal review element at key decision points in the project. During the Fit/Gap Analysis, SKYWARD will bring to the attention of the ECSB PM any requirements issues that SKYWARD's ERP software may significantly change management needs. The team will follow this same approach in planning all system training and implementation steps.

## PROJECT PHASES AND STEPS

## 8. PROJECT INITIATION

**8.1 Project Charter and Kick-off.** Promptly after the Commencement Date, the Parties shall work together to establish a Project Charter, including the following activities:

**8.1.1.** Conduct a visioning session to establish project "branding" and logo.

**8.1.2** Establish the Project Management infrastructure described in Section 4, above.

**8.1.3** Complete comprehensive, integrated Project Work Plan to manage all activities related to the Project.

**8.1.4** Refine and confirm Project Charter and other project management documents.

**8.1.5** Plan and conduct Project Kick-Off.

**8.2 Services.** SKYWARD shall provide the following Services during the Project Initiation Phase:

**8.2.1** Make the Baseline SKYWARD ERP software available to ECSB on the SKYWARD FTP Site.

**8.2.2** Permit ECSB to conduct Beta Testing activities by individuals designated by ECSB through unrestricted access to the Host Environment for the purpose of examining all completed features of the Baseline Software.

**8.3 Project Work Plan.** No later than 30 days after the Commencement Date, SKYWARD will develop and recommend an overall Project Work Plan, subject to the approval of ECSB, which approval will not be unreasonably withheld or delayed. The Project Work Plan will include all tasks and activities with appropriate staffing assignments as agreed upon by ECSB and SKYWARD.

**8.4 Responsibilities of** ECSB. ECSB shall provide the following during the Project Initiation Phase:

**8.4.1** Define Key Project Success Factors in collaboration with SKYWARD.

**8.4.2** Respond with comments, approvals, and rejections on a timely basis.

**8.4.3** Review and approve or reject Product Plan and Work Plan on a timely basis.

**8.5 Deliverables.** The following critical Deliverables shall result from the Project Initiation Phase. Commencement date is defined as the date upon which the final necessary signature is affixed to this document.

| Deliverable/Milestone | Due Dates |
|---|---|
| Project Charter (including "branding") | Commencement Date plus 30 days |
| Project Work Plan | Commencement Date plus 30 days |
| Project Management Guide, including risk management and other project management processes and methodologies | Commencement Date plus 30 days |
| Installation of Baseline SKYWARD ERP software in Hosted Environment for Beta Testing | Commencement Date plus 30 days |
| Project Orientation Manual | Commencement Date plus 30 days |

## 9.0 FIT/GAP ANALYSIS PHASE

### 9.1 Fit/Gap Analysis.

**9.1.1** During the Fit/Gap Analysis Phase, in accordance with the schedule as specified in the Project Work Plan, SKYWARD will work with ECSB to determine how each functional and technical requirement will be implemented within the ECSB ERP using the Baseline SKYWARD ERP software as a starting point for addressing ECSB's requirements. During the course of the Fit/Gap Analysis, SKYWARD and ECSB may identify functional and technical requirements of the ECSB ERP that are not in the requirements set forth in the Proposals After consultation with ECSB, SKYWARD shall provide its assessment of the impact on the overall project scope based on the agreed upon disposition of the New Requirements, covering those items described in the Scope Management Process.

**9.1.2** SKYWARD shall map the specific requirements to the planned SKYWARD ERP software release schedule through the development of an ECSB ERP software Plan. In order to expedite the completion of such analysis, SKYWARD shall provide tentative recommendations for review by ECSB on a weekly basis for feedback by ECSB and ECSB shall use reasonable efforts to advise SKYWARD promptly as to any areas of concern or disagreement. Within ten (10) Business Days of its receipt of SKYWARD' proposed draft of the entire Product Plan, the School District's Superintendent or his designee shall review such draft and either approve in full, reject in full, or approve in part and reject in part such recommended characteristics and values. The parties shall thereafter resolve any differences with respect to any items rejected.

**9.1.3** Once the Product Plan has been accepted, SKYWARD will develop the detailed Configuration/Specifications for each SKYWARD ERP software release that will support the ECSB implementation phases. The detailed Configuration/Specification deliverables for each release will be developed and delivered to ECSB in accordance with the approved Project Work Plan.

**9.1.4** SKYWARD will also evaluate and recommend Technical Platforms within the ECSB hardware architecture for deployment of the new ECSB ERP and develop the technical specifications and product architecture for establishing the production operational environment for ECSB ERP. In evaluating and recommending the available Technical Platforms, SKYWARD shall take into account potential savings by ECSB in using special computer purchasing arrangements with respect to the software and platforms specified by SKYWARD, available to ECSB. Notwithstanding the foregoing, SKYWARD shall not recommend a Technical Platform unless, in the exercise of due professional care, it shall have reached the conclusion that such Technical Platform is scalable to the foreseeable needs of ECSB without unacceptable degradation of response times, reliability, or other key performance specifications.

**9.2 Services.** During the 20 days Skyward provided in the Fit/Gap Analysis Phase, SKYWARD shall provide the following Services:

**9.2.1** Develop specifications and implementation plans for the installation and operation of the ECSB technical architecture to support ECSB ERP.

**9.2.2** Create a project orientation document or manual to properly educate new team members from each Party about the Project, its design and management protocols.

**9.2.3** Complete the Fit/Gap Analysis.

**9.2.4** Complete the Product Plan.

**9.2.5** Design the ECSB Application Interfaces with third party systems.

**9.2.6** Update the Project Work Plan based on the accepted Product Plan and the completed design of the ERP Application Interfaces.

**9.2.7** Test and certify that the web-based version of SKYWARD's ERP software will operate within acceptable performance ranges on designated configurations of ECSB computing hardware.

**9.3 Product Plan.** The Product Plan that is the Critical Deliverable from the Fit/Gap Analysis Phase shall consist of the following elements:

**9.3.1** The final set of features incorporating all requirements for the ECSB ERP mapped to each release of the SKYWARD ERP software.

**9.3.2** The timetable for the delivery of each component of the system to be provided by SKYWARD.

**9.3.3** The final recommendations for Platform Hardware and Software.

**9.3.4** Design of the Application Interface Requirements.

**9.3.5** Acceptable Performance test results for the test scripts that are developed.

**9.4 Deliverables.** The following critical Deliverables shall result from the Fit/Gap Phase.

| Deliverable/Milestone | Due Date |
|---|---|
| Confirmation of Current State Requirements | Commencement Date plus 45 days |

| Deliverable/Milestone | Due Date |
|---|---|
| Confirmation of Future State Requirements | Commencement Date plus 60 |
| Technical Fit/Gap Analysis | Commencement Date plus 60 |
| Product Plan | Commencement Date plus 45 days |
| Detailed specifications for all customizations | Commencement Date plus 60 days |
| Technology Platform Evaluation | Commencement Date plus 25 days |
| Technology Platform Specifications | Commencement Date plus 30 days |
| Data Integration Strategy and Plan | Commencement Date plus 45 days |
| Final Project Work Plan | Commencement Date plus 75 days |

**9.5 Responsibilities of ECSB. The School District's Superintendent or his designee** shall provide the following during the Fit/Gap Phase:

**9.5.1** Communicate Project Milestones to appropriate stakeholders.

**9.5.2** Collaborate on Data Integration Strategy and Plan.

**9.5.3** Integrate SKYWARD's ERP software with District Disaster Recovery and Business Recovery Plans.

**9.5.4** Develop Change Management Plan.

**9.5.5** Respond with comments, approvals, and rejections on a timely basis.

**9.5.6** Review and approve or reject Product Plan and Work Plan on a timely basis.

## 10. SKYWARD'S ERP SOFTWARE READINESS

**10.1 Enhancements.** SKYWARD will develop, test and make available for testing and installation enhancements, improvements, and new modules for the SKYWARD ERP software as defined in the Product Plan and the Configuration/Specification Deliverables for each major deployment, i.e. high schools and elementary schools. The purpose of SKYWARD's ERP software Readiness Phase is to design, code, and test SKYWARD's ERP software modifications and enhancements as specified in the Product Plan. The Product Plan will separately identify those modifications that are marketable enhancements to the national SKYWARD ERP software release from those that are ECSB-only customizations. In all cases, as appropriate, every attempt will be made by SKYWARD to include all enhancements in the national release so as to avoid multiple product paths; and ECSB-unique patches or add-ons.

**10.2 Specific Features.** The following features will be added to the Baseline SKYWARD ERP software in accordance with the Product Plan prior to the "go-live" deployment. These include the list of interfaces documented above in Section 1.7.

**10.3 Services.** SKYWARD will perform the following Services during this phase:

**10.3.1** Develop the interim interfaces necessary to support the phased transition from the current environment to the Skyward ERP software environment.

**10.3.2** Develop permanent interfaces to those current systems that will remain after completion of the Skyward's ERP software implementation as described in Section 1.8.

**10.3.3** Develop new functions and modules after successful RFE (Skyward's Request for Enhancement) process described in the Scope Management Process (Exhibit D).

**10.3.4** Develop Configuration Specifications based on the Product Plan and functional requirements documents.

**10.3.5** Deploy Releases according to the schedule and configuration specified in the Product Plan.

**10.3.6** Prepare Release Notes for each standard release.

**10.3.7** Design and Develop Training Plan.

**10.3.8** Install all software provided by SKYWARD in Test Environment.

**10.4 Responsibilities of** ECSB. During this Phase ECSB shall be responsible for the following:

**10.4.1** Integrate Skyward's ERP software with District Disaster Recovery and Business Recovery Plans.

**10.4.2** Develop Network and Operations Integration Strategy.

**10.4.3** Develop Security Profiles and Security Administration Plan.

**10.4.4** Develop Data Back-up and Recovery Procedures.

**10.5 Dependencies.** Commencement of this Phase is dependent on the completion of the Product Plan.

**10.6 Deliverables (Skyward).** In conjunction with the Project Work Plan to be developed under Section 9.4, the following Deliverables Milestones shall be included with a due date assigned to each milestones used to measure whether the project is on target for complete implementation by July 1, 2012. These deliverables shall include be not be limited by the following:

**10.6.1** Release-Specific Customer Request Form (CRF) Specifications.

**10.6.2** Tested Interim Interfaces.

**10.6.3** Tested Permanent Interfaces.

**10.6.4** Technical Fit/Gap Analysis.

**10.6.5** Phase-Specific Configuration Specifications.

**10.6.6** Tested National Releases per Product Plan.

**10.6.7** Standard Release Notes.

**10.6.8** Configuration/Specification for ECSB schools full implementation Release.

**10.6.9** Application Integration.

**10.6.10** Training Plan.

## 11. ECSB IMPLEMENTATION

**11.1 Conversion to System of Record.** The Parties will work together to establish Skyward's ERP software as the System of Record.

**11.2 SKYWARD Services.** SKYWARD will provide the following Services during this phase of the Project:

**11.2.1** Perform Project Management, including periodic milestone reviews and plan updates.

**11.2.2** Complete ECSB Configuration/Specifications Documentation.

**11.2.3** Conduct documentation review.

**11.2.4** Configure software for ECSB implementation.

**11.2.5** Confirm Technology "Readiness" for ECSB release.

**11.2.6** Migrate software release to ECSB production environment.

**11.2.7** Confirm ECSB "Readiness" for deployment.

**11.2.8** Conduct Documentation Review.

**11.2.9** Conduct ECSB Pre-Go-Live Training.

**11.2.10** Deploy and "Go Live" with ECSB release.

**11.2.11** Provide Assistance to ECSB with Level 2 Customer Support not to exceed 60 days from the date of Go-Live.

**11.2.12** Provide Level 3 Customer Support as specified in the Maintenance Service Schedule.

**11.3 District Responsibilities.** ECSB will obtain the computer hardware capacity and technical resources necessary to deploy and operate the ECSB ERP for all schools and offices across ECSB.

**11.3.1** Update change management plan.

**11.3.2** Update operational integration plan.

**11.3.3** Production system performance reports.

**11.3.4** Go-Live Readiness Review.

**11.3.5** Post Go-Live Training.

**11.3.6** Data conversion.

**11.3.7** Readiness reviews.

**11.3.8** Level 1 and Level 2 Customer Support.

**11.3.9** Formal acceptance by ECSB.

**11.4 Deployment Team.** SKYWARD shall supply a deployment team to affect the ECSB deployment.

**11.5 Dependencies.** Timely completion of this phase is dependent on the following:

**11.5.1** ECSB shall be operational using Skyward's ERP software.

**11.5.2** District shall have extracted the necessary ECSB data required for deployment.

**11.5.3** ECSB will expand the Help Desk and Customer Support operations to accommodate the District's needs.

**11.6** Deliverables (ECSB). In conjunction with the Project Work Plan to be developed under Section 9.4, the following Deliverables Milestones shall be included with a due date assigned to each milestone used to measure whether the project is on target for completion by July 1, 2012. These deliverables shall include but not be limited by the following:

**11.6.1** Updated Project Plan.

**11.6.2** Monthly Management Reports.

**11.6.3** ECSB Business Rule Specification Document.

**11.6.4** ECSB Interface Specification Document.

**11.6.5** ECSB Data Conversion Plan.

**11.6.6** Updated Documentation and Training Plan.

**11.6.7** Lesson Plans and Training Materials.

**11.6.8** Test Plans and Testing Scripts.

**11.6.9** Integration Test Results.

**11.6.10** Performance Test Results.

**11.6.11** Go Live Readiness Review.

**11.6.12** Pre and Post Go Live Data Conversion.

**11.6.13** Pre and Post Go Live Training.

**11.6.14** Level 2 Customer Support assistance.

**11.6.15** Go Live ECSB (100 Percent of Schools and District Offices).

## 12. PROJECT CLOSE-OUT

The objective of the Project Close-Out Phase is to establish the ongoing working relationship between ECSB and SKYWARD after the ECSB ERP Project is completed.

**12.1 SKYWARD Responsibilities.** SKYWARD will provide the following Services during this phase of the Project:

**12.1.1** Perform Level 3 Support as specified in the Maintenance Service Schedule.

**12.1.2** Perform Project Close-Out, including "lessons learned" feedback sessions.

**12.1.3** Collaborate on a potential ongoing working relationship between ECSB and SKYWARD for the continuing improvement and promotion of Skyward's ERP software.

**12.2 District Responsibilities.** There will be a formal signoff by the executive steering committee to accept this project.

**12.3 SKYWARD Deliverables.** Final payment and Project Closeout is dependent on completion of all tasks and deliverables as indicated in this agreement. SKYWARD shall deliver the following Deliverables:

**12.3.1** Final Documentation and Tools

**12.3.2** "As-Built" Functional Requirements Document

**12.3.3** "As-Built" Technical Specifications

END OF EXHIBIT A

# EXHIBIT B

## Price/ Payment Schedule

| SKYWARD ERP SOFTWARE | ONE TIME INVESTMENT | | SERVICES | ANNUAL LICENSE FEE |
|---|---|---|---|---|
| | | | | |
| Finance | $ 113,323.00 | | $ 9,575.00 | $ 28,534.00 |
| Automatic Check Reconciliation | $ 9,916.00 | | | |
| eSign - Electronic Signature - Program | $ 2,000.00 | | | |
| Fixed Assets | $ 42,496.00 | | $ 1,450.00 | $ 10,327.00 |
| Inventory | $ 42,496.00 | | $ 1,450.00 | $ 10,327.00 |
| School Based Activity Accounting | $ 25,498.00 | | $ 750.00 | $ 7,573.00 |
| Accounts Receivable | $ 56,662.00 | | $ 2,900.00 | $ 13,769.00 |
| | | | | |
| Payroll | $ 66,577.00 | | $ 6,800.00 | $ 16,178.00 |
| Employee Management | $ 35,414.00 | | $ 4,600.00 | $ 8,606.00 |
| Employee Access | $ 42,496.00 | | $ 375.00 | $ 10,327.00 |
| FastTrack | $ 21,248.00 | | $ 2,200.00 | $ 5,163.00 |
| Insurance Tracking | $ 28,331.00 | | $ 2,900.00 | $ 6,884.00 |
| Salary Negotiations | $ 21,248.00 | | $ 2,900.00 | $ 5,163.00 |
| Substitute Tracking | $ 31,164.00 | | $ 2,900.00 | $ 7,573.00 |
| TrueTime | $ 56,662.00 | | $ 3,525.00 | $ 13,769.00 |
| Web Software Setup/Installation | | | | |
| New Installation Q &A | | | $ 3,000.00 | |
| Additional Training Days (210) | | | $ 304,500.00 | |
| SmartStart Implementation Service | | | | |
| ASP Set up services | | | $ 500.00 | |
| Technical Support Hours (25) | | | $ 3,375.00 | |
| Consultative Services | | | $ 16,675.00 | |
| Project Management | | | $ 89,875.00 | |
| | $ 595,531.00 | | $ 460,250.00 | $ 144,193.00 |
| **3rd party software** | | | | |
| 1 license Crystal Developer XI | $ 595.00 | | $ 2,900.00 | $ 119.00 |
| 1 license Business Objects Enterprise XI | $ 1,250.00 | | $ 375.00 | $ 250.00 |
| | | | | |
| Work Flow Management | $ 79,326.00 | | $ 4,350.00 | $ 23,560.00 |
| Work Flow Developers license (1) | $ 8,625.00 | | $ 4,350.00 | $ 2,846.00 |
| | | | | |
| **Net Cost** | **$ 685,327.00** | | **$ 472,225.00** | **$ 170,968.00** |

| | One Time Investment | | SERVICES | ANNUAL LICENSE FEE |
|---|---|---|---|---|
| Net Cost | $ 685,327.00 | | $ 472,225.00 | $ 170,968.00 |
| **SKYWARD ERP Conversions** | | | | |
| Standard Budgetary | | | $ 3,216.00 | |
| Open Purchase Orders | | | $ 1,296.00 | |
| Check Reconciliation | | | $ 972.00 | |
| Standard Payroll | | | $ 2,520.00 | |
| W2 History | | | $ 5,040.00 | |
| Time-Off Summary Balances | | | $ 1,536.00 | |
| Retirement History | | | $ 312.00 | |
| Certifications | | | $ 1,272.00 | |
| Professional Growth | | | $ 1,296.00 | |
| Standard Fixed Assets | | | $ 2,520.00 | |
| Standard Inventory | | | $ 2,520.00 | |
| Detailed Payroll Conversion- State Rpting | | | $ 7,800.00 | |
| *Conversion total* | | | $ 30,300.00 | |
| **Subtotal ERP** | $ 685,327.00 | | $ 502,525.00 | $ 170,968.00 |
| | | | **TOTAL ERP** | **$1,358,820.00** |

**ASP Fee: $9,183.00 per month**

| Payment Schedule for Modules requiring conversion of data | Payment Schedule for Modules not requiring conversion of data | ERP |
|---|---|---|
| Contract Signed | Contract Signed | 20% of Proposal One-Time Investment Cost |
| Software Installed or Accessible | Software Installed or Accessible | 20% |
| Data Converted & Verified | Training Begun | 20% |
| Core Training Completed | Core Training Completed | 20% |
| Module in Production | Module in Production | 20% |
| | | |
| SKYWARD Provided Training | Due Net 30 | |
| SKYWARD Provided Conversion | Upon SKYWARD Receiving Raw Data | 25% |
| | ECSB receiving converted data by Core module | 50% |
| | 90 Days After Go Live Data by Core Module | 25% |
| | | |
| SKYWARD Provided Project Management | Due 30 days after Contract signing | 100% |
| ASP Hosting Fee | Test Database Deployment | 30% |
| | End user training commencement | 20% |
| | Go live date | 50% |
| | | |
| Skyward Annual License Fee | Start per module on 1st day of end user training* | 100% |

* ALF fees will be prorated for start of the fiscal year by module

Training Completed shall be defined as the last day of training necessary for the module as agreed by the SKYWARD and ECSD Project Manager(s).

1. Payment shall be made upon receipt of an invoice and within ten (10) days of receipt.

2. The Implementation Plan and Project Management Plan shall establish milestones based on the initial SKYWARD Implementation Plan. The parties may mutually agree to modify, add or delete tasks or move completion dates without jeopardizing the payment schedule herein.

3. The payment is dependent on each party honoring the duties and responsibilities established within the contract.
3 a. In the event Milestones are missed that are beyond SKYWARD's control or as a result of ECSD actions or inactions, the Milestone shall be assigned a new date with priority for completion. Payment will be made in full.
3 b. In the event Milestones are missed that are beyond the ECSB's control or as a result of SKYWARD's actions or inactions, the Milestone shall be assigned a new priority date and if a result of SKYWARD's actions, a proportionate deduction as negotiated between the parties shall be withheld from the payment until the task(s) is(are) completed and the project is on schedule. The deduction shall be paid once all missed tasks are completed and project is on schedule.

4. The ECSB may hold back some training going into year two at its elections. Such holdback shall have no bearing on the payment schedule. Such adjustments may be made prior to final payment and project closeout.

5. Final Payment / Project Closeout. Final payment is dependent on completion of all tasks* and deliverables* as indicated in the agreement as a minimum and to include:
5 a. Successful printing of W2's - No later than 1/31/2013.
5 b. Successful completion of fiscal year closing with accurate balance carry forwards for balance sheet accounts, fund balance and re-budget of encumbered amounts (purchase orders) and unencumbered project balances.
5 c. Successful completion of budget cycle with decentralized entry of budget requests and amendments with flow through assigned approval levels and summarization of entered budgets into single document for submission to FLDOE.
5 d. Successful generation FA399 grant expenditure reports at close of grant periods for prior fiscal year.
5 e. Successful generation of monthly financial statements to include balance sheets, revenue and expenditure statements with comparison of actual to budget and function expenditure matrix by fund group.
5 f. Successful generation of standard general ledger reports to include cost center expenditure report, project expenditure report and balance sheet/revenue reports.
5 g. Successful generation of fixed asset records from general ledger entries.

Final Payment will not be delayed should the ECSB choose to delay implementing a module on its own volition.

* Utilizing the existing functionality in the SKYWARD ERP's current form.

END OF EXHIBIT B

# EXHIBIT C

## Maintenance Services Schedule

THIS Maintenance Services Schedule ("Maintenance Schedule" or "Schedule") sets forth the Services to be provided by SKYWARD ("SKYWARD") to the School Board of Escambia County (ECSB) Florida ("the District" or "ECSD") relating to technical support of the ERP System referred to in that certain Software Services and License Agreement between the Parties dated March 15, 2011 ("Agreement"). The capitalized terms used in this Schedule shall have the meanings set forth in the Agreement.

### 1. INTRODUCTION

**1.1 Scope.** During the term that Maintenance Services are to be provided to the District by SKYWARD under the Agreement, SKYWARD shall correct all Defects in all SKYWARD developed Software, shall assist for fee the isolation and identification of Defects in Third Party Software for support by the vendor of such software utilized by Maintained Software, and shall provide those other items of support services as are specifically described in this Schedule.

**1.2 Warranty Support.** This Schedule also describes SKYWARD's responsibilities with respect to warranty claims made within the warranty period applicable to the respective elements of Licensed Software.

**1.3 Additional Definitions.** The following definitions shall apply in addition to any definitions set forth in the Master Agreement:

**1.3.1 "Business Time"** shall mean time accounted for based only on Normal Hours of Operation. One Business Time day shall be accounted for in one-half day increments. That is, a Business Day includes the entire day if the call is placed prior to Noon on that day, but one-half day if the call is placed after Noon on that day.

**1.3.2 "Clock Time"** shall mean actual elapsed time without regard to Normal Hours of Operation.

**1.3.3 "Fault"** shall mean an incident or series of related incidents in which the ERP shall fail to perform in accordance with its specifications as the result of a Defect in the Maintained Software.

**1.3.4 "Maintained Software"** shall mean all computer software for which SKYWARD is the primary licensor or source, including without limitation, the SKYWARD ERP Software and the ECSB Features, as well as any Third Party Software that is an integral part of the ERP package.

**1.3.5 "Normal Hours of Operation"** shall mean SKYWARD's normal hours of operation, which are 7 a.m. to 5 p.m. Central Time, Monday through Friday excluding holidays.

**1.3.6 "Service Level Commitment"** shall mean for each type of Fault, the maximum response time, level of effort, or other metric to which SKYWARD has committed under this Schedule.

**1.3.7 "Update"** shall mean a modification to the Licensed Software reflecting corrections or minor revisions not sufficient to constitute a Release.

## 2. MAINTENANCE SERVICES

**2.1 Catalog of Services.** When referred to in this section, the following service descriptions will apply:

**2.1.1 Error Corrections.** When SKYWARD is obligated to provide error corrections and/or bug fixes for a component, it will provide to the District within the applicable Service Level Commitments, a revised software module or patch correcting the Defects to which the corrections apply. Patches should be used only when installing a revised module is impracticable. Revised Documentation shall be delivered to the extent necessary to reflect changes made by the error correction that has been distributed.

**2.1.2 Updates.** SKYWARD will provide to the ECSB such revisions of the Licensed Software as have been generally made available to licensees of the respective programs to which such Updates apply.

**2.1.3 Releases.** SKYWARD will provide to the District all new releases of the product in question, including without limitation, those incorporating substantial new functionality on the same schedule as delivered to its other customers.

**2.1.4 Level Two Support.** Level Two Support is defined as the triage process of determining the nature of problems that is (network, hardware, software) that cannot be resolved at Level One. Issues related to failure of the respective item of Licensed Software to function in a manner consistent with Documentation, will be escalated to Level Three. All other issues will be addressed by the ECSB. ECSB does not currently intend to purchase Level Two Support from SKYWARD, but such services will be provided at ECSB's request at the prices set forth on the Pricing Schedule.

**2.1.5 Level Three Support.** Level 3 Support shall consist of analyzing Faults reported by providers of Level 2 Support, constructing and testing error corrections or bug fixes, and distributing the same, with complying Documentation to the ECSB within the service level commitment period applicable with the Priority Level of the reported Fault.

**2.1.6 Priority Levels.** Faults shall be characterized and prioritized in accordance with the following Priority Levels:

**2.1.7** A **"Priority 1"** Fault shall mean any failure of Licensed Software that precludes all work at the total system level from being done on a computer system or that materially impairs a major function of the software. Nonexclusive examples include system crashes, database-wide information corruption, and incorrect writing of critical fields.

**2.1.8** A **"Priority 2"** Fault shall mean any condition that materially impairs one or more functions that the Licensed Software is specified to perform, but that does not involve a Priority 1 condition. Nonexclusive examples include database information corruption for a small group of students, a single school, or incorrect writing of non-critical fields. Priority 2 conditions are less severe than Priority 1 conditions.

**2.1.9** A **"Priority 3"** Fault is a condition that does not materially interfere with any function or business process of the District. Priority 3 conditions include cosmetic or formatting defects in screen displays or

reports that do not affect the accuracy of data entry or review, awkwardness of operation, or other end user annoyances.

**2.2 Source Code.** If or when ECSB exercises its option to purchase Source Code, at the time SKYWARD supplies any error correction, update or upgrade, it shall provide to the District, in machine readable format as well as Source Code, all Source Code for the Maintenance Materials being distributed, together with all Documentation required for the District to compile, edit, configure, install and run such error correction, update or upgrade. Source code is available from an FTP secure SKYWARD site at no cost. Should the district want the source code in any other from, there will be a time and materials fee.

**2.3 Software Maintenance Services.** For as long as the District purchases Maintenance Services from SKYWARD, SKYWARD shall provide the following Maintenance Services to the District with respect to the Licensed Software:

**2.3.1 Level Three Support.** SKYWARD shall provide Level Three Support for all reported Defects in accordance with the Service Levels attributable to the Priority of the reported Fault.

**2.3.2 Error Corrections.** SKYWARD shall make available to the District all error corrections and bug fixes developed by SKYWARD or its subcontractors or licensors, whether reported by the District or discovered by SKYWARD by other means.

**2.3.3 Releases.** SKYWARD shall make available all Updates and Releases to the Licensed Software.

**2.4 Delivery of Software Revisions.** All error corrections, Updates and Releases shall be delivered or made available by electronic transmission in the same manner as provided for the delivery of software and Documentation under the Statement of Work.

**2.5 Documentation.** In connection with each Delivery of Licensed Software, including without limitation each Delivery of an Update or Release, SKYWARD shall deliver to the District full maintenance documentation in accordance with best practices in the industry.

**2.6 Error Logging.** During the term hereof, SKYWARD shall maintain a computerized trouble reporting and service tracking system that is available to ECSB authorized personnel via the SKYWARD customer portion of the web.

**2.7 Emergency Service Weekend and Evenings.** Emergency Service is defined as a problem which needs immediate resolution and cannot wait for the next business day. The emergency telephone number will be supplied by SKYWARD. Any calls will be billed at double SKYWARD's "lowest" technical support rate with a three (3) hour minimum. SKYWARD holiday service will not be available. Weekend support is only available on a scheduled basis – twelve (12) hour minimum notification.

**2.8 Online Support Service.** The District will allow the use of online diagnostics on Licensed Products if requested by SKYWARD during problem diagnosis. District will provide connection telecommunications access to the affected computer servers for SKYWARD's use.

## 3. SPECIFIC SERVICES

**3.1 Telephone Assistance.** Telephone assistance during Normal Hours of Operation will be provided in identifying and verifying the causes of suspected Defects. This assistance includes the following activities:

**3.1.1** Advice on work-arounds for verified Defects until the Defect is addressed.

**3.1.2** Information on verified Defects previously identified by the District and reported to SKYWARD and work-arounds to these.

**3.1.3** Advice on completion, and authorization for submission, of the SKYWARD form to report identified Defects in Licensed Product to SKYWARD.

**3.2 Reported Defects.** When the District's Level Two Support personnel report a Priority One or Priority Two Fault to SKYWARD, SKYWARD will provide the following responses:

**3.2.1** Assign dedicated personnel to the resolution of the Fault.

**3.2.2** Provide an alternative procedure for restoring the operation of the impaired functions until such time as the Defect can be remedied.

**3.2.3** Perform root cause analysis to identify the Defect.

**3.2.4** Provide a temporary patch or other software correction to remedy the Defect until the correction may be included in an Update.

**3.3 Documentation Corrections.** SKYWARD will correct Defects in Documentation for Licensed Software in accordance with best practices. Documentation shall also identify all Defects known to SKYWARD, together with procedures developed by SKYWARD to minimize or correct the effects of such Defects.

**3.4 Priority 1 Responses.** In the case of a Priority 1 Fault reported by the District, SKYWARD shall respond within two (2) hour from the time SKYWARD's service representative ("SR") or other person receives the call, and provide a correction, or work around, within four (4) hours, provided that the District provides counterpart personnel to provide Consultation and Assistance to SKYWARD during SKYWARD efforts to resolve the problem. All times in this Section shall be Clock Time. If a Priority I condition cannot be corrected or workaround provided, within six (6) hours, the following escalation policy will be put into effect unless SKYWARD determines a more immediate response is warranted:

**3.4.1 Persons involved after six (6) hours:** The SR shall notify SKYWARD's Director of Professional Services and other members of SKYWARD's on-call team and they shall commence work to resolve the problem.

**3.4.2 Persons involved after twelve (12) hours:** SKYWARD's Regional Sales Director and Senior Director of IT will become involved and shall identify and deploy the resources necessary to correct the problem.

3.4.3 **Persons involved after sixteen (16) hours:** SKYWARD's Senior Vice President of Operations or Chief Executive Officer shall become involved.

3.5 **Priority 2 Responses.** For Priority 2 conditions, SKYWARD shall respond within four (4) hours from the time the SR or other person receives the call. Whenever possible, Priority 2 conditions will be addressed by providing a patch or suggested work-around to accommodate the District's needs within eight (8) hours, with a correction or workaround within twenty-four (24) hours. If a patch or work-around cannot be provided within eight (8) hours, the problem may be escalated to a Priority 1 condition and treated as set forth above unless SKYWARD determines a more immediate response is warranted.

3.6 **Priority 3 Responses.** For Priority 3 Faults, ECSB shall receive a response within forty-eight (48) hours from the time the SR or other person receives the call. SKYWARD shall use reasonable efforts to correct Priority 3 conditions within three (3) weeks. There is no escalation policy for a Priority 3 condition.

3.7 **Other SKYWARD Support.** The District may request in writing for SKYWARD to perform Level 2 Support (by issuing a Work Order or Purchase Order) and such support shall be provided at the technical support analyst rates reflected in the Pricing Schedule.

END OF EXHIBIT C

# EXHIBIT D

## Scope Management Process for the Configuration, Installation and Deployment

The purpose of this document is to define a series of processes by which changes may be made to any aspect of the work being performed or Deliverable being delivered by SKYWARD. ("SKYWARD") to Escambia County School Board ("ECSB") pursuant to that certain agreement dated March 15, 2011 by and between SKYWARD and the ECSB ("the Agreement"). All capitalized terms used in this document shall have the meanings specified in the Agreement, or if no meanings are defined in the Agreement, such meanings as may be specified in this document.

### 1. DEFINITIONS

**1.1 "Change Order"** shall mean a modification or clarification of the Project Documents that are duly adopted by the Parties in accordance with the Scope Management Process.

**1.2 "Change Request"** shall mean a request by a Party for a Change Order made in accordance with the Scope Management Process.

**1.3 "Emergency Change Order"** shall mean a Change Order resulting from a Change Request which ECSB has designated as having an emergency status.

**1.4 "Initial Specification"** shall mean the description or specification of a computer program, process, method, or other item which is called for under the terms of the Statement of Work, but which has not yet been specified in full as of the Execution Date of the Agreement.

**1.5 "Priced Resource"** shall mean a component of labor, materials, or other expense in providing a service under the Agreement, including without limitation, hours or other units of work of individuals, units of supplies, license fees, travel and lodging expenses, and other items.

**1.6 "Scope Process"** shall mean, as the context requires, either this Scope Management Process document, or the applicable procedures set forth in this Scope Management Process document.

**1.7 "Work Order"** shall mean a request for specific work of a relatively routine nature that does not affect any Specification and that is priced on a time and materials basis.

### 2. THE CHANGE REQUEST PROCESS

**2.1 Change Requests Logging and Numbering.** All change requests will be entered into **SKYWARD**'s customer portion of the website. The Skyward RFE (Request For Enhancement) process will be used.

**2.2 Initial Specification Process.** Each RFE initiated will contain a thorough description of the business problem to be solved, an impact statement, and the system components, if applicable, using Macro Media Tutorials. Additional documentation shall be provided, such as screen shots, reports samples, etc. if necessary.

**2.3 RFE from ECSB.** RFEs initiated by ECSB shall have a completed RFE, be in a Tutorial and shall be signed by the designated ECSB Project Manager. Duly executed Change Requests shall be delivered to the SKYWARD Project Manager.

## 3. RESPONSES TO REQUESTS FOR ENHANCEMENTS (RFE)

**3.1 Initial Specifications.** In the event that additional clarifications are necessary to the specifications submitted, SKYWARD shall assign a representative to meet with the person(s) initiating their request and acquire additional documentation or other forms of clarification necessary to proceed.

**3.2 Time to Respond.** The Party receiving a Change Request shall respond in writing to such change request with the materials required by this Article within ten (10) Business Days of its receipt of the Change Request.

**3.3 Contents of SKYWARD Response.** SKYWARD's response to a Change Request received from ECSB shall include the following items:

**3.3.1** A binding price of the work requested computed in accordance with the procedures set forth in this Scope Process.

**3.3.2** A complete Technical Assessment of the Change Request, as described herein.

**3.3.3** The amount of time required to complete the work requested.

**3.3.4** Any Additional acceptance criteria.

**3.4 Technical Assessment.** A technical assessment of a Change Request shall contain a technical evaluation of the proposed change and an estimate of the effect of the Change Request on all material aspects of the Project or any Deliverable, including without limitation (a) any anticipated changes in time to complete any and all affected milestones, (b) the estimated effects of the changes on the accuracy, speed, reliability, or other characteristics of any and all functions of SKYWARD'S Student Information System software and (c) the risk analysis associated with preceding with this Change Request.

**3.5 Effect on Acceptance Criteria.** Unless otherwise approved in a Change Order, no acceptance process, test, or criteria and shall be modified as the result of the adoption of a Change Order, except to the narrow and limited extent made necessary by the approved technical changes.

## 4. PRICING OF CHANGE ORDERS

**4.1 Fixed Prices on All Change Orders.** Except in the case of Work Orders, all price quotes for Change Orders will be the agreed upon price of the specific RFE.

**4.2 Relief for Unforeseeable Circumstances.** Notwithstanding the foregoing, in the event that SKYWARD can demonstrate that its quotation for a Change Order proposed by and subsequently accepted by ECSB was based on information collected by SKYWARD which was substantially inaccurate and which SKYWARD should not have known at the time was materially inaccurate, the parties shall negotiate in good faith as to the revision of the quoted price. SKYWARD understands and acknowledges that this procedure is only to be used under extraordinary circumstances. ECSB is expecting that SKYWARD will use its best efforts in all cases to collect accurate information upon which to base a response to a Change Request. In no event shall SKYWARD be entitled to price relief on any Change Request initiated by SKYWARD.

**4.3 Work Orders.** ECSB may from time to time request in writing for SKYWARD to perform services related to the SKYWARD PRODUCT, not exceeding the maximum aggregate amount set

forth in the Agreement, to provide additional minor functionality or to provide services not otherwise required by the Statement of Work. Such requests shall take the form of Work Orders, shall be priced on a Time and Materials basis, not to exceed the amount set forth in the Work Order, and shall be directed to the SKYWARD Project Manager.

**4.4 Resource Estimation.** Each price quotation by SKYWARD in response to a Change Request initiated by ECSB shall be based on a reasonable estimate of a quantity of each Resource required to be supplied or expended in connection with the Services to be performed in the event that the Change Request is accepted and implemented. In addition, SKYWARD shall notify ECSB of Resources that will not be required (or will be replaced) in the event that the Change Request is accepted and implemented. The Resource estimate shall be accompanied by a Gantt Chart or Work Breakdown Schedule identifying when Resources affected by the Change Request are to be deployed, such as to identify increases or decreases in staffing or other components which would affect SKYWARD's costs.

**4.5 Resource Prices.** The price for a ECSB Change Request shall be equal to the sum of the prices for all Resources to be supplied or expended under the Change Request, applying the rates set forth in the Pricing Schedule attached to the Agreement, plus the cost of any resources which will not be required or will be replaced as a result of the acceptance and implementation of the Change Request. In the event that a Resource is required that is not listed in the Pricing Schedule, the price shall be quoted prior to the start of the Change Order.

## 5. REQUEST FOR ENHANCEMENTS

**5.1 Effect of Response.** SKYWARD's response to an ECSB RFE (or its own Change Request) shall constitute SKYWARD's offer to provide for services and Deliverables specified in the Change Request on the terms set forth in such response or SKYWARD RFE, which offer shall be irrevocable for a period of ninety (90) days from its submission to ECSB, subject to modification only in the event of the discovery of unforeseeable circumstances as described in Section 4.2.

**5.2 Acceptance of RFE.** ECSB's PM will conduct a review of each SKYWARD RFE and each response by SKYWARD to an ECSB Change Request prior to making a recommendation for acceptance or rejection of such response or SKYWARD RFE. ECSB may accept SKYWARD's offer made pursuant to Section 5.1 above by delivering an acceptance, executed by ECSB's Executive Sponsor, to SKYWARD at any time prior to the effective revocation of such offer by SKYWARD. Upon acceptance by ECSB, the terms and conditions of the RFE shall become a Change Order and be deemed to amend the Statement of Work in all applicable respects, as well as to amend the provisions of any Specification, the Pricing Schedule, or any other applicable Project Documents specified by the parties in the Change Request and/or response thereto.

**5.3 Effect of Non-acceptance.** In the event that ECSB either rejects an offer from SKYWARD pursuant to Section 5.1 above or fails to accept such offer prior to its revocation, all provisions of the Statement of Work, Pricing Schedule and other Project documents shall remain unchanged as if no Change Request had been submitted.

**5.4 Form of RFE.** Upon ECSB's acceptance of SKYWARD response to a RFE (or of a SKYWARD RFE), SKYWARD shall promptly prepare a Change Order for the approval by ECSB, which shall contain the following items:

**5.4.1** An itemization of all Deliverables under the Change Order.

**5.4.2** A description of all acceptance criteria for all new Deliverables.

**5.4.3** The prices and terms and conditions for payment for all Deliverables under the Change Order.

**5.4.4** A list of all sections of a Project Documents affected by the Change Order.

**5.4.5** A signature line for approval by appropriate ECSB and SKYWARD personnel.

**END OF EXHIBIT D**

# EXHIBIT E

## Statement of Work - ISCORP

THIS STATEMENT OF WORK describes the work and Deliverables to be provided by Integrated Systems Corporation, Inc. ("ISCorp") to the School Board of Escambia County Florida (ECSB) in conjunction with that certain Software Services and License Agreement between ECSB and SKYWARD, Inc. dated March 15, 2011 ("Agreement").

### PROJECT OVERVIEW AND INTRODUCTION

### 1. INTRODUCTION

**1.1 Scope. ECSB** has selected SKYWARD's software to be implemented as the basis for its ERP package. ECSB has engaged SKYWARD as the prime vendor to implement the software. The ERP Project will implement SKYWARD'S software package in a cooperative effort between ECSB and SKYWARD and ISCorp and will be carried out in five (5) major Phases, as follows:

- Project Initiation
- Fit/Gap Analysis;
- SKYWARD's Readiness;
- Deployment for Escambia County School District;
- Project Closeout

### 2. ISCORP RESPONSIBILITIES

ISCorp shall provide the following Services or cause the following Services to happen:

**2.1** Acquire, install, configure, test and maintain all necessary hardware components for the deployment of SKYWARD's ERP Application in a Hosted Environment for ECSB. This includes all Production Environment components, Test Environment components and all Development Environment components. Components include: all Database Servers, Web Servers, Report Queue Servers, Print Servers, Application Servers, SAN Controllers and Disks, Firewall Servers, Monitoring Servers, VAM and IDS Servers, and all required ISCorp Network Infrastructure elements.

**2.2** ISCorp shall provide all backup and data recovery tools required to maintain 99.975% uptime. A Disaster Recovery Site is also included.

**2.3** ISCorp shall provide 7x24x365 Support of the Production Environment.

**2.4** Review and report on the current telecommunications network as to its compatibility with the proposed ISCorp Hosting Solution. Verify that the telecommunications network is appropriately configured, sized, and functioning properly.

**2.5** Install and configure the 7x24x365 Network Monitoring infrastructure used by ISCorp to ensure proper network operation.

**2.6** Acquiring, implementing, and maintaining all components of the Technical Platform as specified by SKYWARD in the Specifications and subsequently the Product Plan.

**2.7** Maintaining all systems software (e.g., operating systems, DBMS, etc.) as well as application development software at supported release levels.

**2.8** Providing Training Environment infrastructure for training school district staff.

**2.9** Providing Test Environment infrastructure for testing of releases of the software provided by SKYWARD.

**2.10** Assist with the cleansing and extracting relevant existing data from legacy systems and providing it in a SKYWARD specified format for conversion on a time and material basis.

**2.11** Working with SKYWARD to verify data accuracy following conversion.

**2.12** Operating and supporting the ECSB ERP in the Production environment.

**2.13** Providing a Skyward trained production help desk for both Level 1 and Level 2 support as defined in the Maintenance Service Schedule.

**2.14** ISCorp shall establish on a computer under its direct control not owned or otherwise controlled by ECSB, an "FTP Site," in which all of such Deliverables are stored in digital formats.

**2.15** Except as expressly set forth above, ISCorp shall be responsible for acquiring all computing equipment, and services, supplies and other facilities required by SKYWARD in order to perform the Services.

## 3. SPECIFIC RESOURCES TO BE SUPPLIED BY ECSB

**3.1 Personnel.** ECSB shall identify and provide certain staff and employees, at District expense, for the purpose of managing the Project and performing the activities required of ECSB.

**3.2 Facilities.** ECSB shall provide and operate (to the extent required) the following physical resources at ECSB expense in support of the Project: Desktop computing resources capable of reliable internet connection using basic Internet Browsing tools.

**3.3** Data telecommunications means suitable to the reliable operation of the SKYWARD ERP in the ISCorp Hosted Environment. There should be available a minimum of 2-3kbytes per active user.

## 4. ESTABLISHMENT OF TESTING ENVIRONMENT AND TESTING PROTOCOLS

**4.1 District Facilities.** Within thirty (30) days after the completion of the fit/gap analysis phase, ISCorp will provide the following equipment, operating system and other Platform Software, for the purpose of establishing a Test Environment for testing software deliverables prior to release to production:

**4.2** ISCorp will make available a fully functional Test Environment per any project plan(s).

**4.3** A Disk Subsystem configured to accommodate initial data load requirements for the ECSB deployment.

**4.4** ISCorp will provide all Backup Data Center Servers.

**4.5** Testing Configuration. ISCorp will provide the installation and configuration of the Test Environment so as to (a) permit the realistic simulation of the Production Environment for the purpose of testing any, some, or all of the software Deliverables, and (b) permit identification and correction of errors and inefficiencies determined during testing, and (c) permit the pre-assembly of an operational system to support migration of new releases, patches and other modifications and enhancements to the Production Environment once they have passed acceptance tests.

**4.6 Test Database.** ECSB shall extract a set of student and school/facility information of its choosing ("Test Database") from its existing records of the requisite types in the format specified by SKYWARD for data conversion and make it available for import into the ISCorp Testing Environment. Such Test Database shall not be copied or removed from facilities under the direct control of ECSB and may only be exposed to SKYWARD employees and SKYWARD's subcontractors who are subject to the confidentiality obligations and security protocols otherwise imposed by the Agreement and this Statement of Work. Due to additional conversions being requested, ECSB will pay time and materials if additional conversions outside of the standard Skyward conversion scope.

**4.7 Test Scripts.** At least fifteen (15) Business Days prior to the due date for each software Deliverable, SKYWARD and ISCorp shall deliver a proposed sequence of data and operational procedures ("Test Script") to be used to verify the accuracy and reliability of the Deliverable. ECSB shall review such proposed Test Script and make such additions and changes as it reasonably deems appropriate. The Test Script as edited and agreed to by the Parties shall be used to conduct the applicable acceptance tests for such Deliverable.

**4.8 Software Acceptance Testing.** All acceptance testing protocols shall at the minimum verify that the modules being tested meet the definitions of the Skyward documentation. Upon the Delivery of each software Deliverable and the approval of applicable Test Scripts, ECSB shall conduct tests within ten (10) Business Days of receipt of the applicable Deliverable in the Test Environment with requested Consultation and Assistance from SKYWARD. ECSB shall determine in accordance with the provisions of the Agreement if the results of such acceptance tests are satisfactory to indicate conformity with the Product Plan and Configuration/Specification Deliverables in all material respects.

**4.9 Faults or Defects.** In the event that the software Deliverable fails to meet the standards set for Acceptance Testing, ECSB shall itemize the Faults or Defects, and SKYWARD and ISCorp shall perform such root cause analysis and other procedures to isolate the problem, develop corrections as soon as practicable, and rerun the applicable portions of the tests and such of the other tests as ECSB determines to repeat to ensure the faults have been corrected. The process of fault detection, analysis, correction, and retest shall continue until the applicable Deliverable has successfully passed the acceptance test.

**4.10 Releases to Production.** Deliverables that have passed the designated acceptance tests shall be migrated to the Production Environment in accordance with the mutually agreed upon migration procedures, provided that ECSB's Project Manager has given written approval.

## 5. DATA CONVERSION/DATA CONVERSION SERVICES

**5.1** ISCorp shall make available all SKYWARD Applications, systems and Environments required for all data conversion activities.

**END OF EXHIBIT E**