

OFFICE OF CHIEF INFORMATION OFFICER
Summary of State Board of Education Agenda Items
January 20, 2022

OFFICE OF TECHNOLOGY AND STRATEGIC SERVICES

03.B. Action: Contract with Mythics, Inc to provide Oracle Licensing Support [Goal 5 – MBE Strategic Plan]

Awarded Vendor: Mythics, Inc
Virginia Beach, Virginia

Scope of Project: The MSIS database and application servers, as well as the Data Warehouse and Accountability calculations run in OTSS's Oracle environment. The purpose of this contract is to retain support services necessary to maintain and update these systems. The total compensation to be paid under this agreement shall not exceed the specified sum of \$83,544.35.

Personnel associated with this contract are not former Department employees or related to any Department employee.

Scope of Contract:

- Term of Current Contract: January 23, 2022 – January 22, 2023
- Amount to be Awarded: \$ 83,544.35
- Method of Award: ITS Procurement

Funding Source: State Funds

This item references Goal 5 of the *Mississippi Board of Education 2018-2022 Strategic Plan*.

Recommendation: Approval

Back-up material attached

**PROJECT NUMBER 46724
PURCHASE AGREEMENT
BETWEEN
MYTHICS, INC.
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
MISSISSIPPI DEPARTMENT OF EDUCATION**

This Purchase Agreement (hereinafter referred to as "Agreement") is entered into by and between Mythics, Inc., a Virginia corporation having its principal place of business at 4525 Main Street, Suite 1500, Virginia Beach, VA 23462 (hereinafter referred to as "Seller"), and Mississippi Department of Information Technology Services having its principal place of business at 3771 Eastwood Drive, Jackson, Mississippi 39211 (hereinafter referred to as "ITS"), as contracting agent for the Mississippi Department of Education located at 359 North West Street, Jackson, Mississippi 39201 (hereinafter referred to as "Purchaser"). ITS and Purchaser are sometimes collectively referred to herein as "State".

WHEREAS, Purchaser, pursuant to OMNIA Partners Region 4 Education Service Center, RFP Number 19-08 for the establishment of a national cooperative contract for Oracle Products and Services (hereinafter referred to as "Products") as listed in Exhibit A which is attached hereto and incorporated herein; and

WHEREAS, Seller was the successful proposer in an open, fair and competitive procurement process;

NOW THEREFORE, in consideration of the mutual understandings, promises, consideration and agreements set forth, the parties hereto agree as follows:

ARTICLE 1 TERM OF AGREEMENT

1.1 Unless this Agreement is extended by mutual agreement or terminated as prescribed elsewhere herein, the period of performance of Oracle support under this Agreement shall begin on January 23, 2022 and continue through the close of business on January 22, 2023.

1.2 This Agreement will become a binding obligation on the State only upon the issuance of a valid purchase order by the Purchaser following contract execution and the issuance by ITS of the CP-1 Acquisition Approval Document.

ARTICLE 2 FURNISHING OF SOFTWARE AND SERVICES

2.1 Subject to the terms and conditions set forth herein, Seller agrees to provide and Purchaser agrees to buy as needed, the Products listed in the attached Exhibit A and at the purchase price set forth therein, but in no event will the total compensation to be paid hereunder exceed the specified sum of \$83,544.35 unless prior written authorization from ITS has been obtained. Purchaser shall submit a purchase order signed by a representative of Purchaser itemizing the Products to be purchased. The purchase order shall be subject to the terms and conditions of this Agreement. The parties agree that Purchaser reserves the right to adjust the quantities of purchases based upon the availability of funding or as determined necessary by Purchaser. In the event there is a national price decrease of the Products bid during this time, Seller agrees to extend the new, lower pricing to Purchaser.

2.2 The Products provided by Seller shall generally conform to the Service Specifications set forth in the Seller's License and Services Agreement as incorporated into Mythics' Region 4 R190801 contract, subject to the conditions of the Oracle Software Programs and/or Services Supplemental Terms and Conditions v050119.

ARTICLE 3 TITLE TO SOFTWARE

Title to the software provided under this Agreement shall at all times remain with the applicable software manufacturer.

ARTICLE 4 CONSIDERATION AND METHOD OF PAYMENT

Once the Products have been ordered by Purchaser, Seller shall submit an invoice for the cost and shall certify that the billing is true and correct. Services will be invoiced as they are rendered. Seller shall submit invoices and supporting documentation to Purchaser electronically during the term of this Agreement using the processes and procedures identified by the State. Purchaser agrees to pay Seller in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Sections 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts by the State within forty-five (45) days of receipt of the invoice. Seller understands and agrees that Purchaser is exempt from the payment of taxes. All payments shall be in United States currency. Payments by state agencies using Mississippi's Accountability System for Government Information and Collaboration (MAGIC) shall be made and remittance information provided electronically as directed by the State. The payments by these agencies shall be deposited into the bank account of the Seller's choice. No payment, including final payment, shall be construed as acceptance of defective Products or incomplete work, and the Seller shall remain responsible and liable for full performance in strict compliance with the contract documents specified in the article herein titled "Entire Agreement".

ARTICLE 5 WARRANTIES

5.1 Seller represents and warrants that Seller has the right to license the software provided under this Agreement. Seller represents and warrants that its services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such services and shall comply in all respects with the requirements of the Agreement.

5.2 Seller represents and warrants that it has and will obtain and pass through to Purchaser any and all warranties obtained or available from the licensor of software or the manufacturer of the equipment.

5.3 If applicable under the given circumstances, Seller represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp2008), and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Seller agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security where required, to provide a copy of each such verification to the State. Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Seller understands and agrees that any breach of these warranties may subject Seller to the following: (a) termination of this

Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Seller by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Seller would also be liable for any additional costs incurred by the State due to contract termination or loss of license or permit.

5.4 Seller represents and warrants that no official or employee of Purchaser or of ITS, and no other public official of the State of Mississippi who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of said project, voluntarily acquire any personal interest, direct or indirect, in this Agreement. The Seller warrants that it has removed any material conflict of interest prior to the signing of this Agreement, and that it shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its responsibilities under this Agreement. The Seller also warrants that in the performance of this Agreement no person having any such known interests shall be employed.

5.5 The Seller represents and warrants that no elected or appointed officer or other employee of the State of Mississippi, nor any member of or delegate to Congress has or shall benefit financially or materially from this Agreement. No individual employed by the State of Mississippi shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom. The State of Mississippi may, by written notice to the Seller, terminate the right of the Seller to proceed under this Agreement if it is found, after notice and hearing by the ITS Executive Director or his/her designee, that gratuities in the form of entertainment, gifts, jobs, or otherwise were offered or given by the Seller to any officer or employee of the State of Mississippi with a view toward securing this Agreement or securing favorable treatment with respect to the award, or amending or making of any determinations with respect to the performing of such contract, provided that the existence of the facts upon which the ITS Executive Director makes such findings shall be in issue and may be reviewed in any competent court. In the event this Agreement is terminated under this article, the State of Mississippi shall be entitled to pursue the same remedies against the Seller as it would pursue in the event of a breach of contract by the Seller, including punitive damages, in addition to any other damages to which it may be entitled at law or in equity.

5.6 Sellers understands and agrees that pursuant to Section 11-7-18, Section 75-2-315.1, and Section 75-2-719 of the Mississippi Code Annotated, there is no disclaimer of the implied warranties of merchantability and fitness for a particular purpose.

ARTICLE 6 INFRINGEMENT INDEMNIFICATION

6.1 Seller represents and warrants, to the best of its knowledge, that neither the software, its elements nor the use thereof violates or infringes upon any copyright, patent, trademark, servicemark, trade secret or other proprietary right of any person or entity. The software manufacturer and/or Seller ("Provider", which may refer to Mythics or Oracle, depending on which party provided the material), as applicable, in accordance with its contract with Purchaser and at its own expense, shall defend or settle any and all third party infringement actions filed against Purchaser which involve the software or other items provided under this Agreement and shall pay all settlements, as well as all costs, attorney fees, damages and judgment finally awarded against Purchaser if the Purchaser does the following: (a) notifies the Provider promptly in writing, not later than 30 days after the Purchaser receives notice of the claim (or sooner if required by applicable law); (b) gives the provider sole control of the defense and any settlement negotiations; and (c) gives the Provider the information, authority, and assistance the Provider needs to defend

against or settle the claim. If the continued use of the Products for the purpose intended is threatened to be enjoined or is enjoined by any court of competent jurisdiction, the software manufacturer or third party licensor, as applicable, shall, at its expense: (a) first procure for Purchaser the right to continue using such Products, or upon failing to procure such right; (b) modify or replace them with non-infringing products, or if these alternatives are not commercially reasonable; (c) refund to Purchaser the purchase price or software license fees previously paid by Purchaser for the Products Purchaser may no longer use.

6.2 The parties understand and agree that pursuant to Article 4 Section 100 of the Mississippi Constitution, the State can't agree to indemnify Seller or any third party.

ARTICLE 7 EMPLOYMENT STATUS

7.1 Seller shall, during the entire term of this Agreement, be construed to be an independent contractor. Nothing in this Agreement is intended to nor shall it be construed to create an employer-employee relationship or a joint venture relationship.

7.2 Seller represents that it is qualified to perform the duties to be performed under this Agreement and that it has, or will secure, if needed, at its own expense, applicable personnel who shall be qualified to perform the duties required under this Agreement. Such personnel shall not be deemed in any way directly or indirectly, expressly or by implication, to be employees of Purchaser. Seller shall pay, when due, all salaries and wages of its employees, and it accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation, and any other withholdings that may be required. Neither Seller nor employees of Seller are entitled to state retirement or leave benefits.

7.3 It is further understood that the consideration expressed herein constitutes full and complete compensation for all services and performances hereunder, and that any sum due and payable to Seller shall be paid as a gross sum with no withholdings or deductions being made by Purchaser for any purpose from said contract sum.

ARTICLE 8 MODIFICATION OR RENEGOTIATION

This Agreement may be modified only by written agreement signed by the parties hereto, and any attempt at oral modification shall be void and of no effect. The parties agree to renegotiate the Agreement if federal and/or state revisions of any applicable laws or regulations make changes in this Agreement necessary.

ARTICLE 9 AUTHORITY, ASSIGNMENT AND SUBCONTRACTS

9.1 In matters of proposals, negotiations, contracts, and resolution of issues and/or disputes, the parties agree that Seller represents all contractors, third parties, and/or subcontractors Seller has assembled for this project. The Purchaser is required to negotiate only with Seller, as Seller's commitments are binding on all proposed contractors, third parties, and subcontractors.

9.2 Neither party may assign or otherwise transfer this Agreement or its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer of its obligations without such consent shall be null and void. This Agreement shall be binding upon the parties' respective successors and assigns.

ARTICLE 10 AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of Purchaser to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature

and the receipt of state and/or federal funds for the performances required under this Agreement. If the funds anticipated for the fulfillment of this Agreement are not forthcoming, or are insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds, or if there is a discontinuance or material alteration of the program under which funds were available to Purchaser for the payments or performance due under this Agreement, Purchaser shall have the right to immediately terminate this Agreement, without damage, penalty, cost or expense to Purchaser of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination. Purchaser shall have the sole right to determine whether funds are available for the payments or performances due under this Agreement. In the event of termination, Seller shall be paid for services rendered by Seller in connection with this Agreement and accepted by Purchaser as of the date of receipt of notification of termination. In the event of termination, Seller shall be paid for services rendered by Seller in connection with this Agreement and accepted by Purchaser as of the date of receipt of notification of termination.

ARTICLE 11 TERMINATION

11.1 Notwithstanding any other provision of this Agreement to the contrary, this Agreement may be terminated, in whole or in part, as follows: (a) upon the mutual, written agreement of the parties; (b) If either party fails to comply with the terms of this Agreement, the non-defaulting party may terminate the Agreement upon the giving of thirty (30) days written notice unless the breach is cured within said thirty (30) day period; (c) Purchaser may terminate the Agreement in whole or in part without the assessment of any penalties upon thirty (30) days written notice to Seller if Seller becomes the subject of bankruptcy, reorganization, liquidation or receivership proceedings, whether voluntary or involuntary, or (d) Purchaser may terminate the Agreement without the assessment of any penalties for any reason after giving thirty (30) days written notice specifying the effective date thereof to Seller. The provisions of this Article do not limit either party's right to pursue any other remedy available at law or in equity. Provisions of this Article do not limit either party's right to pursue any other remedy available at law or in equity.

11.2 All parties have the option, without assessment of any penalties, of terminating all or part the services upon a thirty (30) day notice to the other parties. Upon termination, Purchaser shall pay for the amounts that have accrued for the products and services received prior to the termination of such order, and Seller shall refund any and all applicable unexpended prorated annual service fees paid by the Purchaser.

ARTICLE 12 GOVERNING LAW

This Agreement shall be construed and governed in accordance with the laws of the State of Mississippi and venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi. Seller expressly agrees that under no circumstances shall Purchaser or ITS be obligated to pay an attorneys fee, prejudgment interest or the cost of legal action to Seller. Further, nothing in this Agreement shall affect any statutory rights Purchaser may have that cannot be waived or limited by contract.

ARTICLE 13 WAIVER

Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Agreement. A waiver by the State, to be effective, must be in writing, must set out the specifics of what is being waived, and must be signed by an authorized representative of the State.

ARTICLE 14 SEVERABILITY

If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law provided that the State's purpose for entering into this Agreement can be fully achieved by the remaining portions of the Agreement that have not been severed.

ARTICLE 15 CAPTIONS

The captions or headings in this Agreement are for convenience only, and in no way define, limit or describe the scope or intent of any provision or section of this Agreement.

ARTICLE 16 HOLD HARMLESS

To the fullest extent allowed by law, Seller shall hold harmless Purchaser from and against any and all claims, demands, liabilities, suits, and actions arising out of or caused by Seller and/or its partners, principals, agents, employees, or subcontractors in the performance of or failure to perform this Agreement.

ARTICLE 17 THIRD PARTY ACTION NOTIFICATION

Seller shall notify Purchaser in writing within five (5) business days of Seller filing bankruptcy, reorganization, liquidation or receivership proceedings. Failure of the Seller to provide such written notice to Purchaser shall be considered a material breach of this Agreement and the Purchaser may, at its sole discretion, pursue its rights as set forth in the Termination Article herein and any other rights and remedies it may have at law or in equity.

ARTICLE 18 AUTHORITY TO CONTRACT

Seller warrants that it is a validly organized business with valid authority to enter into this Agreement; that entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual or other agreement of any kind, and notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings, or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.

ARTICLE 19 NOTICE

Any notice required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by electronic means provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at their business address listed herein. ITS' address for notice is: David C. Johnson, Executive Director, Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. Purchaser's address for notice is: John Kraman, Chief Information Officer, Mississippi Department of Education, 359 North West Street, Jackson, Mississippi 39201. The Seller's address for notice is: Victoria Pirrone, Support Solutions Representative, Mythics, Inc., 4525 Main Street, Suite 1500, Virginia Beach, Virginia 23462. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

ARTICLE 20 RECORD RETENTION AND ACCESS TO RECORDS

Seller shall establish and maintain financial records, supporting documents, statistical records and such other records as may be necessary to reflect its performance of the provisions of this Agreement. The Purchaser, ITS, any state or federal agency authorized to audit Purchaser, and/or any of their duly authorized representatives, shall have unimpeded, prompt access to this

Agreement and to any of the Seller's proposals, books, documents, papers and/or records that are pertinent to this Agreement to make audits, copies, examinations, excerpts and transcriptions at the State's or Seller's office as applicable where such records are kept during normal business hours. All records relating to this Agreement shall be retained by the Seller for three (3) years from the date of receipt of final payment under this Agreement. However, if any litigation or other legal action, by or for the state or federal government has begun that is not completed at the end of the three (3) year period, or if an audit finding, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.

ARTICLE 21 INSURANCE

Seller represents that it will maintain workers' compensation insurance subject to policy terms and conditions as prescribed by law which shall inure to the benefit of Seller's personnel, as well as comprehensive general liability and employee fidelity bond insurance. Seller will, upon request, furnish Purchaser with a certificate of conformity providing the aforesaid coverage.

ARTICLE 22 DISPUTES

Any dispute concerning a question of fact under this Agreement which is not disposed of by agreement of the Seller and Purchaser shall be decided by the Executive Director of ITS or his/her designee. This decision shall be reduced to writing and a copy thereof mailed or furnished to the parties. Disagreement with such decision by either party shall not constitute a breach under the terms of this Agreement. Such disagreeing party shall be entitled to seek such other rights and remedies it may have at law or in equity.

ARTICLE 23 COMPLIANCE WITH LAWS

Seller shall comply with, and all activities under this Agreement shall be subject to, all Purchaser policies and procedures, and all applicable federal, state and local laws, regulations, policies and procedures as now existing and as may be amended or modified. Specifically, but not limited to, Seller shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of this Agreement because of race, creed, color, sex, age, national origin or disability. Further, if applicable, Seller shall comply with the provisions of the Davis-Bacon Act including, but not limited to, the wages, recordkeeping, reporting and notice requirements set forth therein.

ARTICLE 24 CONFLICT OF INTEREST

Seller shall notify Purchaser of any potential conflict of interest resulting from the representation of or service to other clients. If such conflict cannot be resolved to Purchaser's satisfaction, Purchaser reserves the right to terminate this Agreement.

ARTICLE 25 SOVEREIGN IMMUNITY

By entering into this Agreement with Seller, the State of Mississippi does in no way waive its sovereign immunities or defenses as provided by law.

ARTICLE 26 CONFIDENTIAL INFORMATION

26.1 Seller shall treat all Purchaser data and information to which it has access by its performance under this Agreement as confidential and shall not disclose such data or information to a third party without specific written consent of Purchaser. In the event that Seller receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of such information, Seller shall promptly inform Purchaser and thereafter respond in conformity with such subpoena to the extent mandated by state and/or federal laws, rules and regulations. This Article shall survive the termination or completion of this Agreement,

shall continue in full force and effect, and shall be binding upon the Seller and its agents, employees, successors, assigns, subcontractors, or any party or entity claiming an interest in this Agreement on behalf of or under the rights of the Seller following any termination or completion of this Agreement.

26.2 With the exception of any attached exhibits which are labeled as "confidential", the parties understand and agree that this Agreement, including any amendments and/or change orders thereto, does not constitute confidential information, and may be reproduced and distributed by the State without notification to Seller. ITS will provide third party notice to Seller of any requests received by ITS for any such marked confidential exhibits so as to allow Seller the opportunity to protect the information by court order as outlined in ITS Public Records Procedures.

26.3 The parties understand and agree that pursuant to § 25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed confidential information.

ARTICLE 27 EFFECT OF SIGNATURE

Each person signing this Agreement represents that he or she has read the Agreement in its entirety, understands its terms, is duly authorized to execute this Agreement on behalf of the parties and agrees to be bound by the terms contained herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against the State or the Seller on the basis of draftsmanship or preparation hereof.

ARTICLE 28 ENTIRE AGREEMENT

28.1 This Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating hereto, including all terms of any unsigned or "shrink-wrap" license included in any package, media or electronic version of Seller-furnished software, or any "click-wrap" or "browse-wrap" license presented in connection with a purchase via the internet. Notwithstanding the foregoing, the services may contain or require the use of separately licensed third party technology, which is licensed to the Purchaser under the terms of the third party technology license agreement and not under the terms of this contract.

28.2 The Agreement made by and between the parties hereto shall consist of, and precedence is hereby established by the order of the following:

- A.** Mythics' Region 4 R190801 contract (excluding the following provisions: (a) any language stating that the State will indemnify Seller or any third party; (b) any language stating that governing law and venue is somewhere other than Mississippi; (c) any language requiring invoices to be paid in fewer than forty-five (45) days of invoice date and (d) any language which limits liability related to infringement, bodily injury, death, physical damage to tangible personal property and/or real property, and/or the intentional and willful misconduct or negligent acts of the Seller or any third party, (e) any language which waives the State's sovereign immunities or defenses as provided by law;
- B.** This Agreement signed by both parties;
- C.** Any exhibits attached to this Agreement;
- D.** Seller's Proposals, including but not limited to the Statements of Understanding, as accepted by Purchaser, in response to OMNIA Partners Region 4 ESC RFP No. 19-08 and written addenda;

28.3 The intent of the above listed documents is to include all items necessary for the proper execution and completion of the services by the Seller. The documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof; provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority, that is, the highest document begins with the first listed document (“A. Mythics’ Region 4 R190801 Contract”) and the lowest document is listed last (“D. Seller’s Proposal”).

ARTICLE 29 SURVIVAL

Articles 5, 6, 12, 16, 20, 25, 26, and all other articles, which by their express terms so survive or which should so reasonably survive, shall survive any termination or expiration of this Agreement.

ARTICLE 30 DEBARMENT AND SUSPENSION CERTIFICATION

Seller certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency; (b) have, within a three (3) year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) are presently indicted of or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property, and (d) have, within a three (3) year period preceding this Agreement, had one or more public transaction (federal, state or local) terminated for cause or default.

ARTICLE 31 STATUTORY AUTHORITY

By virtue of Section 25-53-21 of the Mississippi Code Annotated, as amended, the Executive Director of ITS is the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of information technology equipment, software, and services. The parties understand and agree that ITS as contracting agent is not responsible or liable for the performance or non-performance of any of Purchaser’s or Seller’s contractual obligations, financial or otherwise, contained within this Agreement. The parties further acknowledge that ITS is not responsible for ensuring compliance with any guidelines, conditions, or requirements mandated by Purchaser’s funding source.

ARTICLE 32 TRANSPARENCY

In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as Amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and § 31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully executed copy of this Agreement and any subsequent amendments and change orders shall be posted to the State of Mississippi’s accountability website at: <https://www.transparency.mississippi.gov>. Prior to ITS posting the Agreement and any subsequent amendments and change orders to the website, any attached exhibits which contain trade secrets or other proprietary information and are labeled as

“confidential” will be redacted by ITS. Notwithstanding the preceding, however, it is understood and agreed that pursuant to § 25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed a trade secret or confidential commercial or financial information and shall thus not be redacted.

ARTICLE 33 FORCE MAJEURE

Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war or terrorism, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (the “Force Majeure Events”). When such a cause arises, the Seller shall notify the Purchaser immediately in writing of the cause of its inability to perform; how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to Force Majeure Events shall automatically extend such dates for a period equal to the duration of the delay caused by such events.

For the faithful performance of the terms of this Agreement, the parties have caused this Agreement to be executed by their undersigned representatives.

State of Mississippi, Department of Information Technology Services, on behalf of the Mississippi Department of Education

Mythics, Inc.

By: _____
Authorized Signature

By: _____
Authorized Signature

Printed Name: David C. Johnson

Printed Name: _____

Title: Executive Director

Title: _____

Date: _____

Date: _____

Mississippi Department of Education

By: _____
Authorized Signature

Printed Name: John Kraman

Title: Chief Information Officer

Date: _____

EXHIBIT A

Line Item	CSI	Oracle Product Description/License Type	Start Date	End Date	Qty	Support Type	Extended Price
1	22189617	Oracle Tuning Pack - Processor Perpetual	1/23/2022	1/22/2023	2	Software Update License & Support	\$1,744.95
2	22189617	Oracle Database Enterprise Edition - Processor Perpetual	1/23/2022	1/22/2023	1	Software Update License & Support	\$8,288.54
3	22189617	Oracle Internet Developer Suite - Named User Plus Perpetual	1/23/2022	1/22/2023	3	Software Update License & Support	\$3,036.22
4	22189617	Oracle Partitioning - Processor Perpetual	1/23/2022	1/22/2023	2	Software Update License & Support	\$4,013.38
5	1890730	Oracle Database Enterprise Edition - Processor Perpetual	1/23/2022	1/22/2023	1	Software Update License & Support	\$10,511.33
6	1890730	Oracle Diagnostics Pack - Processor Perpetual	1/23/2022	1/22/2023	5	Software Update License & Support	\$8,298.43
7	18020028	Oracle WebLogic Suite - Processor Perpetual	1/23/2022	1/22/2023	2	Software Update License & Support	\$7,966.47
8	18020028	Oracle WebLogic Suite - Named User Plus Perpetual	1/23/2022	1/22/2023	40	Software Update License & Support	\$17,426.69
9	23194519	Oracle Partitioning - Named User Plus Perpetual	1/23/2022	1/22/2023	100	Software Update License & Support	\$3,885.44
10	23194519	Oracle Database Enterprise Edition - Named User Plus Perpetual	1/23/2022	1/22/2023	100	Software Update License & Support	\$16,050.32
11	23194519	Oracle Diagnostics Pack - Named User Plus Perpetual	1/23/2022	1/22/2023	25	Software Update License & Support	\$633.62
12	23194519	Oracle Tuning Pack - Named User Plus Perpetual	1/23/2022	1/22/2023	100	Software Update License & Support	\$1,688.96
						Total:	\$83,544.35