



Master Purchase Agreement

This Master Purchase Agreement, contract number 2814, between **GALLATIN COUNTY SCHOOL DISTRICT of 600 MAIN STREET, P.O. BOX 147, WARSAW, KY 41095** ("Purchaser") and N. Harris Computer Corporation of 2540 Warren Drive, Suite A, Rocklin, CA 95677 ("Harris") confirms the purchase of the following Software Products, Annual Support and Maintenance, Professional Services, and/or Hardware as listed below. This Master Purchase Agreement will expire unless signed and submitted by June 30, 2011.

PROFESSIONAL SERVICE(S)

DESCRIPTION	QTY	PRICE	ESTIMATED PRICE
PSRS100: Remote Services, hourly Remote Services, hourly (services are estimated - if additional time is needed, it will be invoiced in 15 minute increments at the hourly rate)	3	\$150.00	\$450.00
TOTAL PROFESSIONAL SERVICE(S)			\$450.00

All charges are exclusive of out of pocket expenses for Professional Services performed. Charges for actual and reasonable out-of-pocket expenses including, but not limited to, travel and lodging expenses will be billed monthly as incurred.

SUMMARY

ESTIMATED DELIVERY CHARGE (Ground)**	\$0.00
TOTAL SOFTWARE LICENSE FEE	\$0.00
TOTAL ANNUAL MAINTENANCE AND SUPPORT	\$0.00
TOTAL PROFESSIONAL SERVICES	\$450.00
TOTAL HARDWARE	\$0.00
TAX**	\$0.00
GRAND TOTAL:	\$450.00

\*\*This Agreement excludes freight, state, local, and federal taxes. These are due and payable by the Purchaser where applicable.

AGREEMENT TERMS AND CONDITIONS:

This Master Purchase Agreement the ("Agreement"), as of the Date in Section 19 the ("Effective Date"), governs the purchase of Software Products, Annual Support and Maintenance, Professional Services, and Hardware the ("Products").

1. Definition:

(a) **Software Products.** "Software Products" are the computer programs explicitly listed above in the section titled "Software Products".

2. Payment Terms:

Order will be processed with the return of the signed Agreement.

The fees for the Software Products shall be invoiced after delivery (CD-ROM or Electronic Transfer) to Purchaser and due thirty (30) days from the date of invoice.

Professional Service Fees and any applicable travel and lodging expenses, shall be billed monthly as the work is performed and due thirty (30) days from the date of invoice.



Hardware Fees shall be invoiced upon delivery of Hardware to Purchaser and due thirty (30) days from the date of invoice. Harris hereby reserves a purchase money security interest in all Hardware delivered to Purchaser in accordance with this Agreement until payment in full is received for all Hardware delivered to Purchaser, and for that purpose this Agreement shall be a security agreement.

License Transfer Fees, if applicable, shall be invoiced at the start of the project and due in thirty (30) days.

### **3. Delivery Media Type:**

CD-ROM or Electronic Transfer

### **4. Delivery Schedule:**

The parties will agree upon an appropriate training, project, and delivery schedule based on, among other things, the modules in respect of which training is required and the skills and availability of both the Purchaser and Harris staff members.

### **5. Data Conversion:**

The success of a data conversion is based on the format and quality of the input data. Unless otherwise indicated, conversion is strictly limited to non-dollar amounts. A typical conversion includes information such as names, addresses, and phone numbers. Only information explicitly listed in this document will be converted. Initial cost estimates for conversion are included in system pricing proposals but these are only estimates until inspections or sample data can be examined to verify data formats and data integrity. Only then can an accurate conversion cost can be established. Any costs associated with obtaining the data from the existing vendor are the responsibility of the Purchaser. Sample data shall be provided in standard fixed length format with ASCII display characters only. Data must be on a media formats readable by Harris.

Wherever possible, the data extraction shall be done twice. The first extraction is to test and create the conversion tools. The second extraction is done when the implementation is ready to go live.

In the event a data re-conversion is required, for whatever reason, Purchaser will be billed at the services rate quoted above.

### **6. Maintenance and Support Fees:**

Maintenance and Support fees ("MSF") include all program updates, enhancements and general releases that Harris makes available to its Purchaser as part of its regular software maintenance program. MSF does not include fees for any third party licenses or Harris services that may be necessary to perform a third party license upgrade. MSF also includes access to the Harris support hot line. It is the intent of the parties to incorporate via reference into this Agreement all applicable website terms and conditions located at <http://support.harriscomputer.com>, as they may be modified from time to time consistent with this Agreement.

The initial maintenance amount will be billed and due the earlier of sixty (60) days from the date of signing of the Agreement or the date which represents the Completion of Services. Harris reserves the right to change maintenance and support fees from time to time.

Subsequent years MSF shall be rendered at the beginning of each year in which services are to be furnished. Lapses in annual MSF will be monitored and will lead to denial of support, upgrade privileges and termination of Licenses. In the event of a lapse, Purchaser will be subject to reactivation fees not to exceed 40% of the current annual MSF applied to each year of the lapse including partial year lapses plus the amount representing "the lapsed" MSF. The specific services provided by the technical support staff are outlined in the Harris Annual Software Support Maintenance Terms & Conditions.

The initial term of this Agreement shall be for one year beginning on the Date as defined in Section 19. Agreement shall continue thereafter on an annual basis provided that Purchaser shall pay the then prevailing Maintenance and Support Fee, unless terminated by either party upon giving to the other not less than 45 days notice in writing prior to the end of



the first year or any subsequent anniversary of such date.

At Harris' discretion, the Annual Maintenance and Support Fee may be pro-rated to synchronize the maintenance term with Harris' standard maintenance year of July 1 to June 30.

#### **7. Additional Customization(s):**

The Purchaser and Harris have jointly reviewed the Software Products and have determined that all items are adequate except as noted in the CUSTOMIZATIONS section. Additional customization(s) or report modifications not identified in this Agreement will be quoted as requested and billed at the rate of one hundred-seventy five dollars (\$175) per hour. Customizations and or report modifications requested one year or more from the date of this Agreement will be billed at the then current Harris hourly rate. No additional customizations will be undertaken without prior agreement by both parties on cost, scope of functionality, and the impact on the project schedule.

Ten percent of any fees associated with any customization services will automatically be added to the Purchaser's MSF.

#### **8. Forms:**

Purchaser agrees to use standard forms unless otherwise indicated. If purchaser does not order forms from Harris, forms must be approved by Harris before ordering. A Change Order may be issued to purchaser by Harris for any report modifications, which will be billed at a rate of one hundred-fifty dollars (\$150) per hour.

#### **9. Professional Services:**

Additional professional services are available on-site or via the telephone. Telephone work is billed at the rate of one hundred-fifty dollars (\$150) per hour. On-site work is billed at the rate of six hundred-twenty five dollars (\$625) per day plus travel, lodging and per diem expenses. Work performed one year or more from the date of this Agreement will be billed at the then current Harris rates. Help line support does not include training. New employees must be trained by Purchaser or by making arrangements with Harris.

In the event, Purchaser wishes to schedule any professional services on a Saturday there is a five hundred dollar (\$500) surcharge.

Application consulting and setup services may include but are not limited to: software installation, configuration, data validation, system setup, system balancing, interface setup, interface testing, process training, application training and business requirements gathering.

#### **10. Travel and Lodging Expenses:**

Travel and lodging expenses will be billed in conjunction with any services work performed at the Purchaser's offices by Harris personnel. Lodging expenses will include hotel expenses and will only be charged if an employee is required to spend the evening. Travel expenses may include airfare if the employee is required to travel by air to reach the Purchaser's offices. Travel may include the cost of a rental car. If an employee uses his/her personal vehicle, mileage will be charged at the currently published IRS reimbursement rate. When an employee is at or traveling to the Purchaser's offices, fifty dollars (\$50) per day will be charged to cover meals and incidentals. If an employee must travel on Saturday, Sunday, or a holiday, or is at the Purchaser's office on a holiday, one hundred dollars (\$100) per day will be charged to cover meals and incidentals.

Harris will use its best efforts to minimize all travel and lodging expenses. Only actual travel and lodging expenses will be billed to the Purchaser.

#### **11. Grant of License:**

Harris hereby grants Purchaser a nontransferable, nonexclusive, nonrefundable license under the terms of this Agreement to use the Software Products on its equipment subject to the following:

- (a) The Purchaser may not sublicense, rent, lease or assign the Software Products.



(b) No license is given to Purchaser for the source code to the Software Products. The Purchaser is expressly prohibited from reverse engineering, decompiling, or disassembling the Software Products or from creating a derivative or modified copy of the Software Products.

(c) Initial delivery of the Software Application shall be COTS ("Commercial off the shelf"). Purchaser is not relying upon any future product future product availability or functionality upon entering into the payment obligations under this Agreement.

#### **12. Performance by Purchaser:**

(a) Co-operation by Purchaser -- The Purchaser acknowledges that the success and timeliness of the implementation process shall require the active participation and collaboration of the Purchaser's and its staff and agrees to act reasonably and co-operate fully with the Harris to achieve the Completion of Services.

(b) Required Programs -- The Purchaser acknowledges that if the use of the Software Products requires that the Purchaser obtain and install additional software programs, then the Purchaser agrees that the acquisition of the additional software programs shall be at its sole cost and that the cost thereof is not included in the fees herein. The Purchaser further acknowledges that the operation of the Software Products requires the Purchaser's hardware to be of sufficient quality, condition and repair, and the Purchaser agrees to maintain its hardware in the appropriate quality, condition and repair at its sole cost and expense, in order to facilitate the achievement of Completion of Services.

(c) Project Manager -- The Purchaser shall appoint a project manager who shall work closely with Harris to facilitate the successful completion of the implementation process and who shall be responsible for supervising the staff of the Purchaser and their co-operation with and participation in such process.

#### **13. Warranty Disclaimer:**

Harris does not make, and hereby disclaims, any and all express and/or implied warranties regarding the services or any material provided by Harris to Purchaser pursuant to this Agreement, including, but not limited to, warranties of merchantability, fitness for a particular purpose, and non-infringement, and warranties arising from a course of dealing, usage or trade practice. Further, Harris does not warrant that the Software Products will meet any exact user requirements, and that the software will operate error free or uninterrupted. In the event an error is discovered in one of the Software Products currently covered by MSF, and the error is confirmed, Harris will make reasonable efforts to provide Purchaser with a correction.

It is acknowledged by the parties hereto that the Hardware provided by Harris to Purchaser pursuant to this Agreement was manufactured and delivered to Purchaser by a third party manufacturer and Harris is reselling it to Purchaser. As such, Purchaser makes no warranties, express or implied, with respect to the Hardware, including, without limitation, their merchantability or fitness for a particular purpose. Any warranty Purchaser has with respect to the Hardware shall be solely provided by the manufacturer(s).

#### **14. Limitations on Liability:**

**PURCHASER AGREES THAT HARRIS' LIABILITY HEREUNDER FOR DAMAGES, REGARDLESS OF THE FORM OF ACTION, SHALL BE LIMITED TO ACTUAL DIRECT DAMAGES AND SHALL NOT EXCEED THE CHARGES HEREUNDER PAID BY PURCHASER TO HARRIS. PURCHASER FURTHER AGREES THAT HARRIS WILL NOT BE LIABLE FOR ANY OTHER DAMAGES INCLUDING CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY DAMAGES, LOST PROFITS, FAILURE TO REALIZE ANTICIPATED SAVINGS, DATA LOSS, LOSS OF GOODWILL, BUSINESS OPPORTUNITIES OR REPUTATION, ECONOMIC LOSS OR FOR ANY CLAIM OR DEMAND BY ANY THIRD PARTY, EXCEPT A CLAIM FOR PATENT OR COPYRIGHT INFRINGEMENT WITH RESPECT TO LICENSED SOFTWARE.**

#### **15. Change Order Process:**

With respect to any proposed changes to the Professional Services defined by this Agreement, the parties will cooperate



in good faith to execute Change Orders in respect thereof, and will not unreasonably withhold approval of such proposed changes. If either party causes or requests a change in the allocation of the resources of Harris applied to a task, changes in completion schedules for individual tasks or for overall implementation, and changes in staffing that require Harris to provide additional work hours, Harris may propose a change to cover the additional work effort required of it. Approval of any such proposed changes will not be unreasonably withheld (it being acknowledged that any such material changes may require modifications to the consideration paid, and timelines governing, the Professional Services), and any disputes regarding changes shall be handled initially by discussions between the parties which will be convened in good faith by the parties to resolve any such matters in dispute.

The following individuals are authorized to sign off on change orders on the Purchaser's behalf:

Name: Dorothy Perkins Title: Superintendent

Name: Ray Spahn Title: Asst. Superintendent

**16. Cancellation Policy**

In the event of cancellation of the Agreement by either party for any reason, Purchaser agrees to pay for all Software Products delivered, any Professional Services rendered and travel and lodging expenses incurred prior to the cancellation. Purchaser must provide written notification to Harris if it wishes to cancel the Agreement.

Cancellation of any on-site Services by Purchaser is allowed for any reason if done in writing more than fourteen (14) days in advance of such Professional Services. Cancellation by Purchaser with fourteen (14) days or less of scheduled on-site Professional Services will be billed at fifty percent (50%) of the on-site fee, plus any non-recoverable costs incurred by Harris due to advance scheduling of travel. Additionally, Purchaser hereby acknowledges that cancellation of on-site Professional Services means that such on-site Professional Services will be rescheduled as Harris' then current schedule permits. Harris is not responsible for any delay in Purchaser's project resulting from Purchaser's cancellation of Professional Services. If additional Professional Services are required because the Purchaser was not adequately prepared for the on-site Professional Services, Harris will provide a Change Order to the Purchaser for the additional Professional Services.

**17. Hardware:**

Purchaser may return Hardware within thirty (30) days of receipt of Hardware only if Hardware is in original packaging and in original condition. All returns are subject to approval and a fifteen percent (15%) restocking fee will be charged to the Purchaser for each item returned. Purchaser will pay all shipping charges related to returned Hardware.

**18. Governing Law; Venue:**

This Agreement shall be governed by the substantive and procedural laws of the State of New York. Purchaser hereby agrees to submit to the exclusive jurisdiction of, and venue in, the courts in the State of New York in any dispute arising out of or related to this Agreement.

**19. Acknowledge of Purchase:**

By the signing of this Agreement in the space provided below, the parties acknowledge their acceptance of the purchase and agree with the terms of this sale as set forth above.

Purchaser: **GALLATIN COUNTY SCHOOL DISTRICT**

By: Martha Selving Date: 6-16-2011

Title: School Nutrition Director

Master Purchase Agreement Prepared By:

**Contact:** Ben Readle  
N. Harris Computer Corporation  
**Telephone:** (812) 789-3702  
**Fax:** (916) 577-2929  
**Email:** breadle@harriscomputer.com

**Additional Information:** None of the information provided below is intended, nor may it be interpreted, to vary or modify in any way the terms and conditions, including prices, contained elsewhere in this Agreement or in the applicable Terms and Conditions established at <http://support.harriscomputer.com>.