

VENDOR SALES CONTRACT

This agreement (the "Agreement") made July 10, 2018, between **mk Solutions Inc.**, a corporation incorporated under the laws of Connecticut with main office located at 75 Acco Drive, Suite A-3, York, PA, USA 17402 (the "Seller") and the **Washoe County Purchasing Office** through its Procurement Services Department, located at Post Office Box 11130, Reno, Nevada 89520-0027, USA (the "Buyer").

- A. The Seller is the manufacturer and distributor of mk Solutions library self service automation systems; and
- B. The Buyer wishes to purchase and the Seller wishes to sell to the Purchaser the hardware, software, training and documentation according to the specifications described in Appendix "A" (the "Product"). Appendix "A" specifically includes:
- related software ("Software");
 - related hardware ("Hardware");
 - RFP and its addendums provided by the Buyer;
 - Responses to RFP and addendums by the Seller;
 - Ongoing Hardware and Software Support commitment to Buyer by Seller;
 - Implementation plan required by the Buyer;
 - Shipping, installation and training; and
- C. The Buyer may purchase support services (the "Support Services") from the Seller with the initial purchase of the equipment at the rates set out in Appendix "A". Support Services renew automatically each year thereafter for four consecutive years at the rates set forth in Appendix "A" unless terminated in whole or in part by the Buyer with 90 days prior written notice to the anniversary date. On the fifth anniversary, unless by mutually agreeable rate adjustment, the agreement will renew automatically at then market rates unless terminated by either party with 90 days prior written notice to the fifth anniversary. Included in the Support Services and selected program (but not limited to), the Seller agrees to ensure through on-site and remote services that:
- Telephone and / or Web Support via TeamViewer and/or VPN logon during normal Library operating hours.
 - Critical issues, being those that prevent use of all or part of the system resulting in downtime are to be resolved as soon as possible after the initial report and depending on the necessary action;
 - The Seller agrees to provide the Buyer with all new updates and releases of software and firmware for those components covered by this Agreement and subject to the Buyer's consent, and implement these updates on the Buyer's behalf (limited to the original purchased functionality) during the warranty period;
 - The Buyer agrees to provide the Seller with suitable telephone, network and / or physical access to the supported components on request and the Seller agrees not to make modifications at any time without first obtaining the Buyer's permission.

It is agreed by the parties as follow:

1. The Buyer agrees to purchase the Product from the Seller and the Seller agrees to supply the Product to the Buyer, on the terms and in the manner set forth in this agreement. In addition, subject to the terms and conditions of this agreement, the Seller grants to the Buyer the non-exclusive; non-transferable right to use the Software in perpetuity unless earlier terminated as provided herein.
2. For the hardware, the Buyer agrees to pay to the Seller the amount of **US\$244,650.00** (the "Purchase Price") to be paid as follows:
 - a. Payment on Signing: 60% of the Purchase Price plus tax (if applicable) will be paid by the Buyer to the Seller on execution of this Agreement;
 - b. Payment on Delivery: 35% of the Purchase Price plus tax (if applicable) will be paid by the Buyer to the Seller with delivery;
 - c. Payment on Delivery: 5% of the Purchase Price plus tax (if applicable) will be paid by the Buyer to the Seller after installation but not later than 1 month after delivery.
3. For the software subscriptions, invoicing takes place in advance for one year, after final acceptance but not later than one month after delivery
4. For the maintenance programs, invoicing takes place in advance for one year, after the initial warranty.
5. The Software is licensed from the Seller and its third party technology providers and will remain the sole and exclusive property thereof including any related copyright, trademark and patent rights. Seller represents and warrants that it has all right, title and interest to use the Software in the sale of the Product, and Seller agrees to indemnify and save harmless the Buyer from and against any and all claims, demands, actions, losses, costs, damages arising out of the Seller's representation and warranty that it has all right, title and interest to use of the Software in the sale of the Product.
6. The Software may not be copied except for back-up or archival reasons. The Buyer may not modify the Software except as permitted in writing by the Seller. The Buyer may not reverse engineer, de-compile or disassemble the Software. The Buyer may make one copy of the Software documentation for each copy of the Software licensed. The Buyer will hold the Software in confidence for the benefit of the Seller, except where otherwise required by state and/or federal law. The Seller will deposit and maintain a copy of the source code of the latest versions of the Seller's software being used by the Buyer in escrow at a mutually agreed location. If the Seller becomes insolvent, makes any assignment in bankruptcy, or makes any other assignment for the benefit of creditors, or ceases operation for any other reason, the source code shall be made available to the Buyer for its sole use. Software documentation, whether for mk Solutions or Third-party software, including training manuals, user manuals shall be provided in electronic (editable) format and may be printed by the Buyer for its own use, or posted on the Buyer's private Intranet for the exclusive use of the Buyer.
7. The Purchase Price will be F.O.B. the Buyer's location, but excludes all applicable Federal taxes and duties, and provincial and local taxes. The Buyer will pay the Seller the amount of any such taxes or duties in proportion to the payment of the Purchase Price.

8. The Seller warrants the Product will perform in substantial accordance with the terms and conditions, as notified by the Seller to the Buyer. The Buyer warrants its network will perform in substantial accordance with the terms and conditions set, as notified by the Seller to the Buyer. This warranty is void if failure of the Product is a result of accident, abuse or misapplication.
9. The Seller disclaims all other warranties, expressed or implied, including but not limited to implied warranties of merchantability and fitness for a particular purpose, with respect to the Software and the accompanying written materials.
10. The Seller will treat as confidential all financial, statistical, personnel, technical, general and/or personal data related to:
 - a. the operations of the Library; or
 - b. Data contained in Library databases

which come to the attention of the Seller's personnel in the course of carrying out the terms of this Agreement, and which are not or do not subsequently become public knowledge, and will not disseminate same for any reason whatsoever without the express written permission of the Buyer; however, the Seller shall not be required to keep confidential any data which are or become publicly available, are already rightfully in possession of the Seller and are not subject to any pre-existing obligation of confidentiality, are independently developed by the Seller outside the scope of this Agreement, or are rightfully obtained from third parties.

11. In no event will the Seller be liable for any damages whatsoever (including, without limitation, damages for loss of business profits, business interruption or loss of business information) arising out of the use of or inability to use the Software or the Product. In addition, the Seller will not be liable for loss of data if the Buyer neglects to backup its profile or if it cannot recall its password, as the Software does not incorporate a key backup and recovery system. The quantities or usage shown on Appendix "A" are anticipated only. The Seller will make available to the Buyer, minimum quantities to be purchased at the agreed prices. No guarantee or warranty is given or implied by the Buyer as to the total amount that may or may not be purchased under this agreement. Prices quoted by the Seller shall be good for a period of 60 days from the signing of this Agreement by the Seller.
12. Once the Product has been installed and configured in each phase, the Buyer will be entitled, to examine it and within sixty (60) days of the date of examination, to reject any portion of the Product which is defective in materials or workmanship. At the end of the period of sixty (60) days, the Buyer will be treated as having accepted the Product that has not been rejected.
13. If any of the Product which is the subject of this agreement is rejected because of failure in workmanship or materials, the Seller will, within a reasonable period of time, replace those items with others which in workmanship and materials meet the requirements of this Agreement.
14. Failure of the Seller to deliver the Product to the Buyer, or of the Buyer to pay for the Product on the due date for payment, will entitle the other party in each case to treat this agreement as repudiated, but without prejudice to any rights accruing due in either party at that date.
15. The Seller may not assign or delegate its obligations under this agreement without the consent of the buyer's governing body or its authorized representative. This agreement will accrue to the benefit of and be binding on the parties and their respective heirs, executors, administrators, personal representatives, successors and permitted assigns.

16. This agreement is to be construed and the parties' actions governed according to the laws of Nevada, USA. All actions arising out of the agreement will be filed in Washoe County.
17. If any term of this agreement is invalid or unenforceable under any statute, regulation, ordinance, order or other rule of law, that term will be deemed modified or deleted, but only to the extent necessary to comply with the statute, regulation, ordinance, order or rule, and the remaining provisions of this agreement will remain in full force and effect.
18. The failure of either party at any time to require performance by the other party of any provision of this agreement will in no way affect the right to require performance at any time thereafter, nor will the waiver of either party of a breach of any provision of this agreement constitute a waiver of any succeeding breach of the same or any other provision.
19. Any notice or other writing required or permitted to be given under this agreement or for the purposes of it to any party, will be sufficiently given if delivered personally, or if sent by prepaid registered mail or if transmitted by fax or other form of recorded communication to that party:
 - a. in the case of a notice to the Buyer at P.O. Box 11130, Reno, Nevada 89520-0027, USA
 - b. in the case of a notice to the Seller at 75 Acco Drive, Suite A-3, York, PA 17402 USAor at any other address as the party to whom the writing is to be given will have last notified the other party. Any notice delivered to the party to whom it is addressed will be deemed to have been given and received on the day it is delivered at that address, provided that if that day is not a business day then the notice will be deemed to have been given and received on the first business day next following that day. Any notice mailed will be deemed to have been given and received on the third business day next following the date of its mailing. Any notice transmitted by fax or other form of recorded communication will be deemed given and received on the first business day after its transmission.
20. Either party may immediately terminate this agreement without liability to the other party on the happening of any of the following events or any other comparable event:
 - a. insolvency of a party;
 - b. filing of a voluntary petition and bankruptcy by a party;
 - c. filing of any involuntary petition and bankruptcy against a party; or
 - d. appointment of a receiver or trustee for a party, execution of an assignment for the benefit of creditors by a party, provided that the petition, appointment or assignment is not vacated or nullified within fifteen days of that event.
 - e. the County does not appropriate funds beyond the then current fiscal period during the life of the agreement

In the event of termination under provisions 20(a) – (d), the library will retain its right to use the software in perpetuity as provided for in paragraphs 1 subject to the escrow provisions of paragraph 4.

21. Any delay or failure of either party to perform its obligations under this agreement will be excused if, and to the extent, that the delay or failure is caused by an event or occurrence beyond the reasonable control of the party and without its fault or negligence, such as, by way of example and not by way of limitation, acts of God, action by any governmental authority (whether valid or invalid), fires, floods, wind storms, explosions, riots, natural disasters, wars, sabotage, labor problems (including lock-outs, strikes and slow-downs), inability to obtain power, material, labor, equipment or transportation, or court injunction or order; provided that written notice of delay (including the anticipated duration of the delay) will be given by the affected party to the other party within ten days. During the period of delay or failure to perform

by the Seller, the Buyer, at its option, may purchase the Product from other sources and reduce its obligation to purchase minimum quantities of the Product from the Seller by the quantities purchased from other sources, without liability to the Seller, or have the Seller provide the Product from other sources in quantities and at times requested by the Buyer and at the price set forth in this agreement. If requested by the Buyer, the Seller will, within ten days of request, provide adequate assurances that the delay will not exceed thirty days.

- 22. This agreement, together with the attachments, documents or appendices specifically referenced in the agreement, constitutes the entire agreement between the Seller and the Buyer with respect to the matter dealt with in this agreement and supersedes all prior oral or written representations and agreements. This agreement may only be modified by a written agreement duly executed by the Seller and the Buyer.
- 23. The Seller shall arrange, pay for and maintain during the term of the Agreement: Errors and Omissions and General Liability insurance acceptable to the Buyer and subject to limits of not less than One Million Dollars (\$1,000,000) inclusive, per occurrence. All insurance policies shall contain an endorsement to provide all Named Insured with prior notice of changes and cancellations. Such endorsement shall be in the following form:
 - a. It is understood and agreed that the coverage provided by this policy will not be changed or amended in any way nor cancelled until sixty (60) days after written notice of such change or cancellation shall be given to all Named Insured.
 - b. All insurance policies shall name Washoe County as additional insured. The Seller shall provide a certificate of insurance as determined by and upon the reasonable request of the Buyer.

The parties have executed this agreement on the date shown on the first page of this agreement.

Seller:

mk Solutions, Inc.

Markus Flory

Name of authorized person

Signature

Buyer:

Washoe County Purchasing Office

Name of authorized person

Signature

Appendix “A” - Pricing

To the agreement dated July 10, 2018 between
 Washoe County Purchasing Office and mk Solutions, Inc.

#	Component	Qty	Unit Price	Ext. Price	SLA (Service Level Agreement) - Silver				
					Year 1	Year 2	Year 3	Year 4	Year 5
1	Return and Sorting System for: South Valley per drawing 10-7.132-000-000-0B	1	\$105,000.00	\$105,000.00	Included	\$8,400.00	\$8,610.00	\$8,825.00	\$9,045.00
2	Shipping	1	\$6,600.00	\$6,600.00					
3	Installation	1	\$7,900.00	\$7,900.00					
4	Training	1	\$500.00	\$500.00					
5	Software Subscription				Included	\$1,300.00	\$1,335.00	\$1,370.00	\$1,405.00
6	Return and Sorting System for: Sparks per drawing 10-7.132-000-100_0D	1	\$107,750.00	\$107,750.00	Included	\$8,620.00	\$8,835.00	\$9,055.00	\$9,285.00
7	Shipping	1	\$7,500.00	\$7,500.00					
8	Installation	1	\$8,900.00	\$8,900.00					
9	Training	1	\$500.00	\$500.00					
10	Software Subscription				Included	\$1,300.00	\$1,335.00	\$1,370.00	\$1,405.00
Tax (only if applicable):				na		na	na	na	na
Total:				\$244,650	\$0.00	\$19,620.00	\$20,115.00	\$20,620.00	\$21,140.00

Appendix “B” – Final Drawings for South Valley library & Spark library

To the agreement dated July 10, 2018 between
Washoe County Purchasing Office and mk Solutions, Inc.

For South Valley library - mk Solutions Drawing No. South Valley 10-7.132-000-000-0B

For Sparks library - mk Solutions Drawing No. Sparks 10-7.132-000-100_0D

(A signed and dated copy of the layout indicating approval of final configuration must be returned with endorsed contract)