

**AMENDMENT NUMBER 23 TO
MASTER SERVICES AGREEMENT
FOR IT SERVICES BY AND
BETWEEN COUNTY OF ORANGE
AND
SCIENCE APPLICATIONS INTERNATIONAL CORPORATION**

This Amendment Number 23 to Master Services Agreement for IT Services by and between County of Orange and Science Applications International Corporation ("Amendment 23") is made and entered into by and between the County of Orange, a political subdivision of the State of California ("County") and Science Applications International Corporation, ("Vendor"). All capitalized undefined terms in this Amendment 23 will be as defined in the Agreement.

RECITALS

WHEREAS, County and Vendor entered into a Master Services Agreement for IT Services by and between County of Orange and Science Applications International Corporation (the "Agreement"); and

WHEREAS, County and Vendor entered into the Agreement effective May 14, 2013 ("Effective Date"); and

WHEREAS, the Parties have previously made the following amendments to the Agreement: Amendment 1, dated September 10, 2013 ("Amendment 1"); Amendment 2, dated February 3, 2014 ("Amendment 2"); Amendment 3, dated June 6, 2014 ("Amendment 3"); Amendment 4, dated July 25, 2014 ("Amendment 4"); Amendment 5, executed January 12, 2016, and retroactively dated to February 3, 2015 ("Amendment 5"); Amendment 6, dated April 26, 2016 ("Amendment 6"); Amendment 7, dated June 1, 2016 ("Amendment 7"); Amendment 8, dated September 13, 2016 ("Amendment 8"); Amendment 9, executed February 15, 2017, and retroactively dated to February 3, 2017 ("Amendment 9"); Amendment 10, dated September 26, 2017 ("Amendment 10"); Amendment 11, dated January 10, 2018 ("Amendment 11"), Amendment 12, dated June 7, 2018 ("Amendment 12"); Amendment 13, dated October 16, 2018 ("Amendment 13"); Amendment 14, dated May 22, 2019 ("Amendment 14"); and Amendment 15, dated October 8, 2019 ("Amendment 15"); Amendment 16, dated September 29, 2020 ("Amendment 16"); Amendment 17, dated February 9, 2021 ("Amendment 17"); Amendment 18, dated March 24, 2021 ("Amendment 18"); Amendment 19, dated May 26, 2021 ("Amendment 19"); Amendment 20, dated March 8, 2022 ("Amendment 20"); Amendment 21, dated March 14, 2023 ("Amendment 21"); and Amendment 22, dated January 9, 2024 ("Amendment 22").

WHEREAS, the Parties desire to enter into this Amendment 23 for the purposes of modifying: (1) the Agreement agreed to in previous amendments to the Agreement by updating Section 27.4 (Notices to a Party); (2) Schedule 2B.5 (Data Center Management Tools) to update the tools used to manage the Data Center; (3) Schedule 2E.4 (Desktop Support Tools) to update the tools used for Desktop support; (4) Appendix 4.1 to Schedule 4 (Service Level Requirements and Weighting Factors) to revise the SLR, Performance Target, Minimum Performance and/or

Formula columns for Service Level Requirements 2, 3, 4, 5 and 20, decreases the weighting factor for Service Level Requirement 27 and adds Service Level Requirement 3.1; (5) Attachment K (Approved Subcontractors) to add EZCloud Solutions LLC as an approved subcontractor; (6) Attachment L (Reports) to incorporate System Software Refresh and Updates Reports to Table 1; and (7) Attachment Q (Definitions) to incorporate the definitions for Active Endpoint, Active/Error Endpoint, Inactive Endpoint, In-Band, Out-of-Band, Package, Patch and Update.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the receipt, sufficiency and adequacy of which is hereby acknowledged, the Parties, intending to be legally bound, hereby contract and agree as follows:

AGREEMENT

A. The Parties hereby agree to amend the Agreement as follows:

1. The Agreement is deleted in its entirety and replaced with the attached amended and restated Agreement - Revision 5, which is incorporated into this Amendment by this reference.
2. Appendix 2B.5 (Data Center Management Tools) – Revision 5 of the Agreement is deleted in its entirety from the Agreement and replaced with the attached Appendix 2B.5 (Data Center Management Tools) – Revision 6, which is incorporated into the Agreement by this reference.
3. Schedule 2E.4 (Desktop Support Tools) – Revision 2 of the Agreement is deleted in its entirety from the Agreement and replaced with the attached Schedule 2E.4 (Desktop Support Tools) – Revision 3, which is incorporated into the Agreement by this reference.
4. Appendix 4.1 (Service Level Requirements and Weighting Factors) – Revision 9 of the Agreement is deleted in its entirety from the Agreement and replaced with the attached Appendix 4.1 (Service Level Requirements and Weighting Factors) – Revision 10 which is incorporated into the Agreement by this reference and shall be effective December 1, 2024.
5. Attachment K (Approved Subcontractors) – Revision 4 of the Agreement is deleted in its entirety from the Agreement and replaced with the attached Attachment K (Approved Subcontractors) – Revision 5 which is incorporated into the Agreement by this reference.
6. Attachment L (Reports) – Revision 2 of the Agreement is deleted in its entirety from the Agreement and replaced with the attached Attachment K (Reports) – Revision 3 which is incorporated into the Agreement by this reference and shall be effective December 1, 2024.
7. Attachment Q (Definitions) – Revision 2 of the Agreement is deleted in its entirety from

the Agreement and replaced with the attached Attachment Q (Definitions) – Revision 3 which is incorporated into the Agreement by this reference.

- B. Except for the modifications agreed to herein regarding Appendix 4.1 (Service Level Requirements and Weighting Factors) and Attachment L (Reports), this Amendment 23 shall be effective upon the latest date it is executed by both Parties.
- C. Order of Precedence When Interpreting Conflicting Terms

Except as otherwise expressly set forth and amended herein, all terms and conditions of the Agreement and its Amendments 1 through 22 remain unchanged and in full force and effect. Capitalized terms used in this Amendment and not defined herein have the meanings given to them or referenced in the Agreement and the prior amendments. In the event of any inconsistency or conflict between or among any provision of this Amendment 23 and any provision of the original Agreement, and/or its amendments/modifications other than Amendment 23, the inconsistency or conflict shall be resolved by giving precedence to the language of amendments, modifications, and the original Agreement in the following order:

1. Amendment 23;
2. Amendment 22;
3. Amendment 21;
4. Amendment 20;
5. Amendment 19;
6. Amendment 18;
7. Amendment 17;
8. Amendment 16;
9. Amendment 15;
10. Amendment 14;
11. Amendment 13;
12. Amendment 12;
13. Amendment 11;
14. Amendment 10;
15. Amendment 9;
16. Amendment 8;
17. Amendment 7;
18. Amendment 6;
19. Amendment 5;
20. Amendment 4;
21. Amendment 3;
22. Amendment 2;
23. Amendment 1;
24. The original Agreement.


[Signatures provided on the following page]

The Parties evidence their entire agreement to the terms of this Amendment 23 as evidenced below by the signature of each Party's legally authorized representative on the dates indicated below.

VENDOR: SCIENCE APPLICATIONS INTERNATIONAL CORPORATION

Mark Holt
Print Name

Contracts, Senior Principal
Title


Signature

October 8, 2024
Date

**COUNTY OF ORANGE,
a political subdivision of the State of California**


KC Roestenberg
Print Name

Chief Information Officer
Title

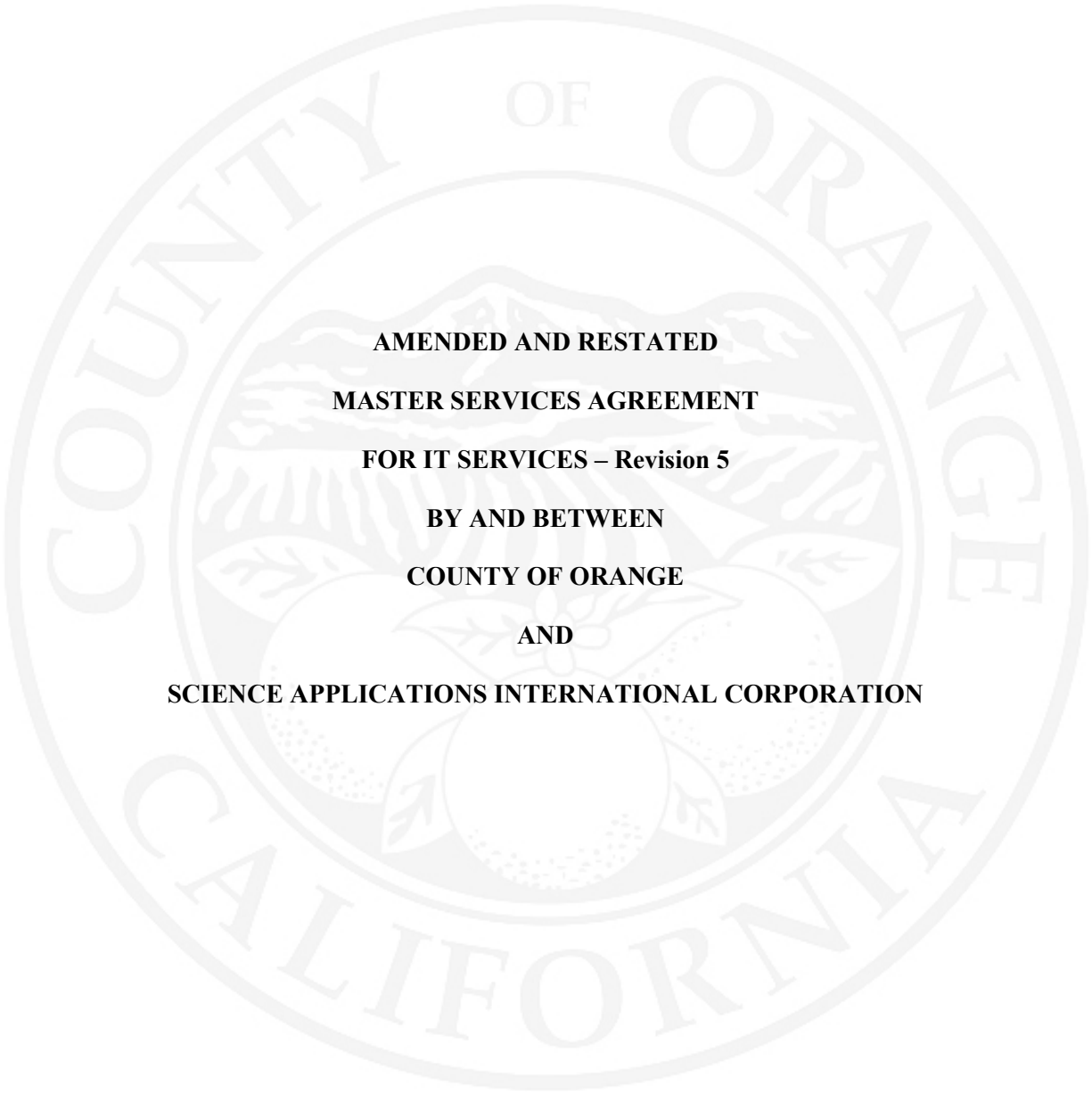
Signature

Date

**APPROVED AS TO FORM
COUNTY COUNSEL**


David Obrand, Deputy County Counsel

Approved by Board of Supervisors on: _____



**AMENDED AND RESTATED
MASTER SERVICES AGREEMENT
FOR IT SERVICES – Revision 5
BY AND BETWEEN
COUNTY OF ORANGE
AND
SCIENCE APPLICATIONS INTERNATIONAL CORPORATION**

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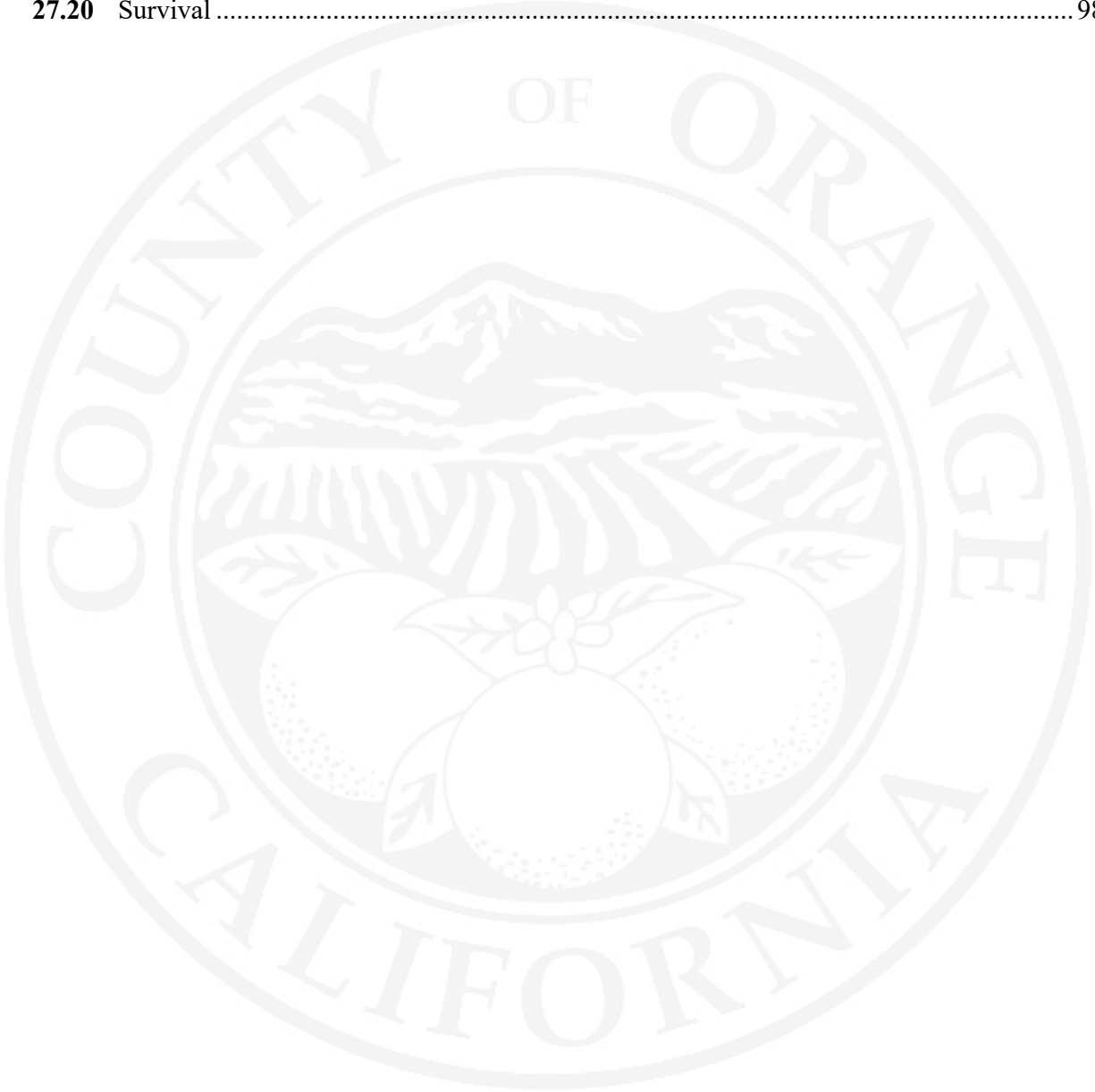
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	Schedule 2C – Service Desk Services SOW
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Schedule 3	Fees
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ATTACHMENTS

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Attachment B	Transition Plan
Attachment C	Benchmarking
Attachment D	County Policies
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Attachment G	Standard and Procedures Manual
Attachment H	Disaster Recovery Plan
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Attachment Q	Definitions
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**AMENDED AND RESTATED
MASTER SERVICES AGREEMENT FOR IT SERVICES**

This Master Services Agreement for IT Services (this “**Agreement**”), dated as of May 14, 2013, is a contract by and between the County of Orange (the “**County**”) and **Science Applications International Corporation** (“**Vendor**”), a Delaware corporation, having a principal place of business at 12010 Sunset Hills Road Reston, VA 20190, under which Vendor shall provide the County with certain IT services on the terms and conditions set forth below.

For and in consideration of the mutual promises and covenants contained herein, the receipt, sufficiency, and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, hereby contract and agree as follows:

1. BACKGROUND AND PURPOSE

1.1 The County’s Objectives

The County recognizes the criticality of information technology as a means to deliver citizen-centric services to its constituents. With this in mind, the County set a strategic direction for IT, including a specific County-wide Information Technology mission statement and goals.

1.2 IT Mission Statement

Provide quality, innovative, fiscally responsible and secure Information Technology solutions that support the business needs of the County of Orange as a whole now and into the future. In order to achieve this mission, the County has identified the following County-wide Information Technology Goals:

- Provide excellent customer service to all internal and external constituents of the County of Orange
- Ensure transparent and fiscally responsible stewardship of IT assets
- Promote creative, cost-effective and innovative thinking
- Foster a culture of team work and collaboration across Countywide IT functions

The County therefore desires to engage a service provider to provide a broad range of IT services related to the ongoing operation, support, and maintenance of the County’s IT systems and infrastructure, as well as certain transitional services whereby Vendor shall assume responsibility for such IT services from the County and certain of its current third party service providers as described and set forth in this Agreement.

1.3 Approval by the County

On the date that Vendor executes this Agreement (the “**Signing Date**”), and for and in consideration of the mutual promises and covenants contained herein, the receipt, sufficiency, and adequacy of which are hereby acknowledged, this Agreement shall constitute the firm offer by Vendor to provide the Services to the County for the Fees, in accordance herewith. This Agreement shall not be binding or of any legal force or effect on the County until the authorized execution of this Agreement by the County. Notwithstanding foregoing, from the Signing Date until such time as the County executes this Agreement (the “**Effective Date**”), Vendor shall continue planning and working with the County to ensure the timely

completion of tasks necessary and sufficient to prepare for and achieve a smooth and seamless transition of the IT services in accordance with the Transition Plan set forth in Attachment B herein.

Notwithstanding the above, (a) the County shall have the right to delay the beginning of Transition for up to sixty (60) calendar days from the Effective Date through written notice to the Vendor prior to the Effective Date; and (b) the Vendor shall not be required to begin Transition activities as defined in this Agreement reasonably requiring knowledge of or participation of the Network Service Provider until (i) the County has selected a Network Service Provider and executed an agreement with such Network Service Provider; and, (ii) the Parties have mutually agreed to any material changes to the Vendor's Transition Plan, price and payment schedule as may be required within a reasonable period of time. Notwithstanding the above, the Parties may determine that some of the Transition tasks or other such task as the Parties may deem appropriate, may be conducted by the Vendor during the delay contemplated in this paragraph. In that event, the Parties shall execute an In-Scope Work Order specifically identifying, among other things, the tasks to be performed by the Vendor, the Fees the Vendor is entitled to for those tasks, and the manner in which the County will pay those Fees.

For the purposes of (b) above, Transition may continue for up to one hundred and eighty (180) calendar days after the Effective Date. If the above stipulated conditions have not been met the Parties may extend this period for an additional number of days to be mutually agreed on by the Parties, or terminate any in process In-Scope Work Orders or this Agreement. In the event one of the Parties chooses to terminate this Agreement as provided above, the terminating Party shall provide the other Party a Termination Notice and the Termination Date shall be no more than seven (7) calendar days after the date of the Termination Notice and (2) either Party may exercise this right of termination. The Vendor shall be entitled to Fees for Services performed under such complete and in-process In-Scope Work Orders inclusive of unamortized costs incurred to support the applicable In-Scope Work Orders.

2. Agreement Structure

2.1 Master Agreement

This Agreement provides a framework for, and the general terms that are applicable to, the Services that Vendor will provide to County, its Affiliates and End Users. The Agreement's structure includes Schedules, Attachments, In-Scope Work Orders and Out of Scope Work Orders. Except as expressly set forth in an amendment to this Agreement, the constituent documents comprising the Agreement shall have the following priority:

- (a) to the extent the conflicting terms can reasonably be interpreted so that such terms are consistent, or do not conflict with each other, such interpretation shall prevail;
- (b) the provisions of this Agreement shall have priority over and prevail in the event of any conflict between the provisions hereof and those set forth in any Schedule or Attachment;
- (c) the provisions of a Schedule shall have priority over and prevail in the event of any conflict between the provisions of such Schedule and those set forth in any Attachment; and
- (d) all In-Scope Work Orders and Out of Scope Work Orders shall be incorporated into this Agreement as amendments to Schedule 2 (Statements of Work), and shall be subject to the order of priority set forth in this Section.

In the event that the Parties elect to add an exhibit, appendix or other document to a Schedule or Attachment, such exhibit, appendix or document shall be made subservient to such Schedule

or Attachment, and shall be further subject to the order of priority set forth in this Section with respect to the other constituent documents comprising the Agreement.

2.1.1 Services to End Users of County

County's rights, duties and obligations under this Agreement extend to each of its End Users. Any provision of Services to an End User of County shall be governed by the terms and conditions of this Agreement. Vendor is fully responsible for the performance of its obligations under this Agreement with respect to the provision of Services to an End User of County.

2.1.2 Services to Eligible Customers; Regional Cooperative Agreement

(a) This Agreement may be used by Eligible Customers, including County departments or agencies. This Agreement is identified as a competitively bid and negotiated contract.

(b) Eligible Customers may utilize this Agreement by creating and issuing their own Subordinate Agreement (herein referred to as "**Subordinate Agreement**"), incorporating the Services (including components thereof) pricing, and terms and conditions of this Agreement into their Subordinate Agreement. Each such Subordinate Agreement will be separate and apart from this Agreement. All Subordinate Agreements must be coterminous with this Agreement. It will be the responsibility of each individual Eligible Customer to directly contact the Vendor for all matters specific to their Subordinate Agreement. The Vendor is responsible for providing each Eligible Customer a copy of the Agreement upon request.

(c) In no event will County be responsible or liable any aspect of the Subordinate Agreement, including the Services, the payment of any Fees attributable to Services performed for Eligible Customers, or any other duty, responsibility, obligation or liability of the Eligible Customer, Vendor or any other Person with respect to the Subordinate Agreement.

3. MANAGEMENT OF RESOURCES AND ASSETS

3.1 Assets; Ownership Responsibility

3.1.1 General. Following each Service Commencement Date, Vendor shall be operationally and financially responsible for the management and replacement of certain hardware and software Assets in accordance with the applicable Statements of Work and the Technology Refresh Plan (Attachment I), and Vendor shall have all right, title, and interest in such replacement hardware and software Assets. Such Asset responsibilities shall include, but not be limited to, the following: (a) the support; maintenance, and management of each retained Asset (including management performance of the third party provider with regard to compliance with service levels and other performance metrics); (b) the compliance with and performance of any operational or contractual obligations with respect to such retained Assets in accordance with Section 3.2 below; (c) the administration and exercise, as appropriate, of all rights available with respect to such retained Assets, provided, that Vendor shall not terminate, amend or renew any contract for a retained Asset without the prior written consent and participation of the CIO, and (d) the payment of any fees, penalties, interest or other expenses due and owing with respect to such retained Assets that are incurred by or result from Vendor's failure to comply with or perform its obligations hereunder. In performing its obligations set forth in Section 3.2, Vendor will not take any action that would place the County in breach of any contract for a retained Asset.

3.2 Contracts

Attachment E contains a list of contracts between County and certain third party vendors, which shall be treated as Assigned Contracts or Managed Contracts, and the Parties shall have the financial, operational and managerial responsibilities for such Assigned Contracts as further described below. During the first one hundred twenty (120) calendar days after the Effective Date, the Parties shall work together in good faith to validate, update and finalize the list of Assigned Contracts and Managed Contracts, attached hereto as Attachment E, as of the Effective Date; provided, however that Attachment E may be updated by mutual agreement of the CIO and Vendor from time to time during the Term, and further subject to Section 3.2.3 below.

3.2.1 Assigned Contracts

Attachment E-1 sets forth the written support, maintenance and other agreements that are expected to be assigned to Vendor for use in providing the Services. If any agreement inadvertently was omitted from such Attachment, at County's request, the Parties shall work together in a cooperative manner to effectuate the assignment of such agreement to Vendor, subject to Section 3.2.3 below. If County is unable to effectuate an assignment of any of such agreements, such agreements shall become subject to the terms of Section 3.2.2.

3.2.2 Managed Contracts

Attachment E sets forth the support, maintenance and other agreements that will be managed by Vendor as part of the Services (collectively, the "**Managed Contracts**"). If any agreement inadvertently was omitted from such Attachment, at County's request and with the mutual consent of the Parties, the Parties shall add such agreement to Attachment E, subject to Section 3.2.3 below. County will attempt to secure the appropriate consents and approvals required to enable Vendor to perform County's obligations relating to the Managed Contracts. If any such consents or approvals are not reasonably available, County will not be required to obtain them, and County and Vendor agree to negotiate in good faith as to the impact of the lack of consent and to produce a reasonable alternative. County hereby appoints Vendor to act during the Term as its single point of contact for all matters pertaining to the Managed Contracts, and with CIO approval, Vendor promptly will notify all appropriate Third Parties of such appointment. CIO may at any time exercise reasonable control over Vendor's actions with respect to such Third Parties as it relates to the provision of Services. County will retain responsibility for all payment obligations, including all related fees, expenses, and maintenance, with respect to the Managed Contracts. The specific roles and responsibilities of each of the Parties with respect to such Managed Contract for the Network Vendor are set forth in Schedule I herein.

3.2.3 Addition of Assigned or Managed Contracts

(a) With respect to an added Managed Contract following the last Service Commencement Date, (i) if, in Vendor's reasonable judgment, the effort to administer such additional Managed Contract can be met through the use of existing work capacity and technical skill sets of the existing Vendor staff without impacting the Vendor's ability to meet its obligations under this Agreement, or (ii) if the County, in its reasonable judgment, elects to provide the Vendor relief from certain Service performance obligations that are impacted by such additional Managed Contract on the Vendor's existing work capacity, then such additional Managed Contract shall be considered a component of the Services and the Vendor shall support such Managed Contract at no additional charge to the County. If neither of (i) or

(ii) above are applicable, then the addition of such Managed Contract shall be addressed in accordance with the Change Management Process set forth in Section 7.4 herein.

(b) In the event County desires to add an Assigned Contract following the last Service Commencement Date, such addition shall be addressed in accordance with the Change Management Process set forth in Section 7.4 herein.

3.2.4 Obligation to Mitigate Fees

Each Party shall use commercially reasonable efforts to minimize and mitigate all relicensing, transfer, third party administrator/agency fees associated with the Assigned Contracts and Managed Contracts. The Parties agree that, where such fees are likely to exist, the Parties shall work together to agree upon alternative actions and/or solutions that will incur lesser or no such fees while, at the same time, achieving the same allocation of ongoing financial, operational and managerial responsibility with respect to such contracts. Vendor shall be responsible to notify County of upcoming renewals of all Assigned Contracts or Managed Contracts in a timely manner, no later than six (6) months prior to the expiration or termination date of the term of the applicable contract, and every thirty (30) calendar days thereafter until such expiration or termination date.

3.3 Required Consents

Except for the Assigned Contracts and Managed Contracts, with the County's cooperation, Vendor shall obtain, at Vendor's cost and expense, all Required Consents. The County's cooperation shall include, at the County's cost and expense, the County's performance of all obligations under the contracts to be performed by it prior to the applicable Service Commencement Date, and the County's agreement to abide by the terms of such contracts after the applicable Service Commencement Date. In the event that any Required Consent is not obtained by Vendor prior to the applicable Service Commencement Date, despite the use of commercially reasonable efforts, then, unless and until such Required Consent is obtained, the Parties shall cooperate with each other in achieving a reasonable alternative arrangement under which Vendor may perform the Services without causing a material breach or violation of any contract under which a Required Consent is to be obtained. Such reasonable alternative arrangements may include: (a) Vendor's obtaining such consent to Vendor's usage of the Assets and rights under the contracts as the relevant third party will agree to provide consistent with the terms and conditions herein; or (b) Vendor's procuring, at Vendor's cost and expense, a suitable replacement for the contracts, for which it is unable to obtain the Required Consent.

3.4 Use of Resources

3.4.1 Dedicated Resources

Except as otherwise agreed by the Parties and documented in Attachment J (Shared Resources), all Machines, Software and any Assets used in Vendor's (or its Subcontractor's) performance pursuant to this Agreement, all County Software, and all Locations, shall be dedicated resources and shall be accessed and used by Vendor and its employees, agents, and Subcontractors, only and exclusively for the provision of Services to the County and not for Vendor's (or its Subcontractors') internal use or use for the benefit of third parties. If the Parties mutually agree to utilize shared resources or migrate any portion of the Services to a shared resource environment, such use of shared resources shall be subject to all appropriate confidentiality and security-related provisions, which shall ensure that none of the County Confidential Information is shared with any third party, except as permitted hereunder. Prior to making any change to the resource environment, Vendor shall provide to the CIO, for the CIO's approval, a proposal

for the use of such shared resources, including benefits, savings, or risks to the County during the Term and upon the expiration or termination of this Agreement.

4. SERVICES

4.1 Agreement to Perform Services

4.1.1 Definition of Services

As used herein, “**Services**” means all of the following:

(a) tasks, services, and functions described in this Section, Schedule 2, and elsewhere in this Agreement or in any of the other associated Schedules, Attachments, Appendices, In-Scope Work Orders, Out-of-Scope Work Orders and exhibits to this Agreement;

(b) all services being performed by County (or through County third parties) prior to the applicable Service Commencement Date(s) and related to the Services in the Statements of Work as determined by County in its reasonable discretion;

(c) all tasks and services that are incidental, ancillary, customary, inherent or necessary, to and for the performance and receipt of any of the Services and the ongoing operation, integration, modification, configuration, support, and maintenance of the Systems (or the use thereof), or any of the other services described in this Agreement and the associated Schedules, exclusive, however, of services or functions for which the County expressly retains responsibility hereunder.

All Services will be described and set forth in a Statement of Work, each of which shall be incorporated into this Agreement under Schedule 2. The Statements of Work to this Agreement includes the following:

- (i) Schedule 2A – IT Service Management and Life Cycle Services SOW
- (ii) Schedule 2B – Data Center Services SOW
- (iv) Schedule 2C – Service Desk Services SOW
- (v) Schedule 2D – Application Development & Maintenance Services SOW
- (vi) Schedule 2E – Desktop Services SOW

Although the Parties have used their best efforts to fully delineate in each Statement of Work in Schedule 2, the specific Services to be provided by Vendor, the Parties acknowledge that some items may not have been specifically identified herein. The specific enumeration in any particular Section of this Agreement of certain of Vendor’s duties or obligations is not an implied limitation on, or alteration of, other duties or obligations imposed on Vendor elsewhere in this Agreement. In the event of any dispute between the Parties as to whether a particular service or function falls within the scope of the services to be provided by the County’s third party service providers, or by the County itself, or within the scope of those to be provided by Vendor, such particular service or function shall be considered to be a part of the Services hereunder if, considering all of the provisions of this Agreement the service or function is consistent with the Statements of Work hereunder and is reasonably inferable to be within the scope of the Statements of Work hereunder.

4.1.2 Performance of Services

Vendor shall perform all of the Services, and provide the Deliverables, to and for the benefit of the County and applicable Eligible Customers and End Users, in accordance with the terms of this Agreement and, with respect to Eligible Customers, the applicable Subordinate Agreement, including the provisions of this Section, and all Schedules and Attachments hereto, and with all performance standards, Critical Milestones, timetables, and deadlines set forth therein. If not otherwise provided in this Agreement, with respect to any tasks, functions, and services that are within the scope of Services but with regard to which there is no set or fixed timetable or schedule for performance and which are therefore to be provided upon the CIO's request, Vendor shall promptly perform such Services, or provide the appropriate Deliverables, in accordance with an In-Scope Work Order from the CIO. Subject to any mutually agreed upon Service Level Requirements ("SLRs") or express performance standards set forth herein, Vendor shall use industry best practices and methods to avoid, prevent, and mitigate any material adverse effect on the Systems or the continuity and quality of the Services being provided to the County.

4.2 Cutover

4.2.1 Preparation

Prior to a Service Commencement Date, Vendor shall employ and assign sufficient Vendor Personnel as are necessary in order for Vendor to provide all Services on and after the Service Commencement Date.

4.2.2 Transition

"**Transition**" is the collection of tasks, activities and processes that shall be performed by Vendor to transfer in a seamless and orderly way, and with minimal disruption or interruption to County, the manner in which the County is then receiving the tasks, activities and processes that comprise the Services, to the manner in which the Services will be performed by Vendor under this Agreement. Transition is required prior to the full implementation and launch of the Services, and represent material obligations of Vendor.

4.2.3 Transition Plan

The Transition Plan, attached as Attachment B ("**Transition Plan**"), sets forth the set of tasks, activities, and projects to be completed by Vendor, for the benefit of the County, between the Effective Date and the Service Commencement Date for each scope of Services. In accordance with the Transition Plan, Vendor shall accomplish the Transition in a transparent, seamless and orderly manner the applicable services received by County prior to the Effective Date to the manner in which the Services will be provided and performed as described in this Agreement. The Transition Plan shall include a timeline for completion of Transition tasks and a Service Commencement Date for the launch or "cutover" of each Transition Wave comprising the Services from the County to direct management of such scope of Services by the Vendor. The SLRs shall apply to all Services to be taken on as of a Service Commencement Date. Notwithstanding the foregoing, the earliest Service Commencement Date for a Transition Wave shall be no later than six (6) months from the Effective Date hereof, unless otherwise agreed by both Parties.

The Parties acknowledge and agree that the requirements of the Transition Plan may change based upon the requirements of the County, changes in circumstances and through additional Vendor and County diligence following the Effective Date. Vendor and the CIO agree to work in good faith to amend Attachment B to meet such new or changed requirements.

4.2.4 Progress Reports

Vendor shall provide to County a weekly written report as to the progress of completion of the activities contained in the Transition Plan until each of Vendor's responsibilities thereunder have been completed. Such reports shall be in a format and include such detail as County may reasonably request.

4.2.5 Issue Management and Action Plan

Vendor shall be responsible for identifying, analyzing, managing and recording issues and risks throughout the Transition period and will provide County with an action plan for resolution.

4.2.6 Financial Responsibility

Vendor shall assume financial responsibility for the provision of the Services as of the applicable Service Commencement Date whether or not the transition of the Services has been completed as of such date. If Vendor is unable to provide the Services as of the applicable Service Commencement Date, “**assume financial responsibility**” means that:

(a) Time is of the essence with respect to each Service Commencement Date. Notwithstanding any other remedy available to the County in this Agreement, should the Vendor fail to meet any applicable Service Commencement Date, including any authorized extensions of time, Vendor shall pay to County the Corrective Assessments set forth in Schedule 4.

(b) In addition to the remedy provided for in subsection a above, Vendor shall be liable to County for County's exercise of its rights under Section 16.3 (Step-In-Rights). For clarity, any failure to meet any of the applicable Service Commencement Date(s) shall constitute a material breach, which shall entitle County to exercise the County's rights under Section 16.3 (Step-In-Rights) herein.

(c) the SLRs shall not apply until the Vendor begins providing the Services provided, however, that Critical Milestones applicable to Transition tasks shall apply during the Transition period; and

(d) Notwithstanding the foregoing, the Vendor shall not be required to assume financial responsibility as described in this Section to the extent Vendor's performance is excused due to a Force Majeure Event, or for a fault by County or other reasons beyond Vendor's control; provided, however, that such fault by County or other reasons beyond Vendor's control shall have directly caused the Vendor failure, and which determination shall be made in accordance with a Root Cause Analysis, or to the extent that the delay was requested in writing by County.

4.3 Stop Order

In the event that the CIO determines, at any time during the Term of this Agreement that the quality or continuity of any portion of the Services have been materially and adversely affected in any way, or that any such material and adverse effect seems reasonably likely to occur, then upon notice the CIO may direct Vendor to stop and proceed no further until such time as Vendor shall have: (a) analyzed the cause of such condition; (b) developed a reasonable plan for resuming such Services in such a manner as to eliminate or avoid such condition. Vendor shall not re-commence the performance of any Services until CIO has issued an approval in writing. The issuance of a stop order shall not constitute, nor shall be construed as, a breach of this Agreement by County.

4.4 Procedures Manual

Within ninety (90) calendar days after the Service Commencement Date, Vendor shall develop to the satisfaction of the County, a "Policies, Standards and Procedures Manual" (which may be referred to herein as a "**Procedures Manual**") applicable to all of the County's IT environment that is applicable to the performance of the Services. The Procedures Manual will generally describe how the Services set forth herein are to be performed, and shall include such other items that the County, upon consultation with Vendor, may reasonably deem appropriate for inclusion in such Procedures Manual. At least thirty (30) calendar days prior to each anniversary of the Service Commencement Date (and within thirty (30) calendar days of any other change to County's IT environment that would have a material impact on the Procedures Manual), Vendor shall revise the Procedures Manual as appropriate to reflect any changes to the County's IT or applications environment, or related requirements, and submit such revised Procedures Manual to County for review, comment, and approval. The Procedures Manual shall be maintained by the Vendor and owned by the County. The Procedures Manual is attached hereto as Attachment G.

Vendor shall develop a "Data Privacy Plan for HIPAA and Personally Identifiable Information" (which may be referred to herein as a "**Privacy Plan**") applicable to the Vendor's performance of the Services in accordance with this Agreement. The Privacy Plan will describe at a high level how the Vendor intends to comply with law, regulation and contractual privacy obligations in the performance of the Services set forth herein. The Privacy Plan may also include such other items that the County and Vendor agree should appropriately be included. The Privacy Plan shall be incorporated in the Procedures Manual contemplated by this section. At least thirty (30) calendar days prior to each anniversary of the Service Commencement Date (and within thirty (30) calendar days of any other change to County's IT environment that would have a material impact on the Privacy Plan), Vendor shall review Privacy Plan and revise it as appropriate to reflect any changes to the County's IT or applications environment, or related requirements, about which Vendor is made aware, and submit such revised Privacy Plan to County for review, comment, and approval. The Privacy Plan shall be maintained and owned by the Vendor.

4.5 Current Projects

On the Service Commencement Date, at no additional charge to the County, Vendor shall assume responsibility for continuing the development and implementation of all current in-scope projects without material interruption and either (a) in accordance with then current written County plans for such projects, if such plans exist and have been furnished to Vendor, or (b) if no such written plans have been furnished to Vendor, as such projects are being performed as of the Service Commencement Date. Within ninety (90) calendar days after the Service Commencement Date, Vendor shall provide the County with a written evaluation and assessment of the status of all in-scope current projects known to Vendor. All current projects will be set forth in Attachment O hereto.

4.6 Disaster Recovery Plan

(a) Vendor shall strictly adhere and conform to the Disaster Recovery Plan. The current County Disaster Recovery Plan is attached hereto as Attachment H and Vendor agrees to follow such plan until a new Disaster Recovery Plan is approved by the CIO in accordance with the terms herein. In accordance with the milestones set forth in Appendix 8 to Attachment B, Vendor shall provide the initial version of the Disaster Recovery Plan. If County suggests changes to the Disaster Recovery Plan, the Parties shall discuss such changes in good faith and shall endeavor to finalize the Disaster Recovery Plan no later than sixty (60) calendar days following the submission of the final draft by Vendor. The Disaster Recovery

Plan shall address and protect the County's critical IT environment. Vendor will update the Disaster Recovery Plan within ninety (90) calendar days of each Service Commencement Date. The CIO may (at any time, and from time to time, during the Term) identify and notify Vendor in writing of other items that the CIO reasonably deems appropriate for inclusion in the Disaster Recovery Plan. Vendor shall promptly review and discuss with the CIO all such additional items and, unless the CIO agrees otherwise in writing, promptly revise the Disaster Recovery Plan to properly address such additional items. If such additional items, in the reasonable judgment of the CIO, are required to improve the quality of the Disaster Recovery Plan such that it meets prevailing industry standards, then such additional items will be incorporated and implemented at no additional cost to County. If the criteria in the preceding sentence do not apply or if in Vendor's reasonable determination, the effort to administer such additional changes to the Disaster Recovery Plan would require an analysis of cost impact, then:

- (i) if Vendor reasonably determines that the incorporation of such additional items can be met through the use of existing work capacity and technical skill sets of the existing Vendor staff without impacting the Vendor's ability to meet its obligations under this Agreement (or if County in its reasonable judgment elects to provide relief with respect to such impacted obligations) then such additional items will be incorporated and implemented at no additional cost to County, or
- (ii) if Vendor reasonably determines that the incorporation of such additional items would impose additional net costs then the incorporation and implementation of such additional items shall be addressed as part of the contract Change Management process in Section 7.4 of the Agreement.

(b) In addition, prior to each anniversary of the Service Commencement Date, Vendor shall revise the Disaster Recovery Plan as appropriate to reflect any changes to the County's IT environment, or related requirements, and submit such revised Disaster Recovery Plan to CIO for review, comment, and approval. Vendor shall also periodically (not less than once per Agreement Year) test the procedures set forth in the Disaster Recovery Plan to ensure that Vendor is capable of promptly and successfully executing them. Notwithstanding the foregoing, the first test of the Disaster Recovery Plan shall be no later than six (6) months from the first Service Commencement Date. Vendor shall promptly provide the CIO with a written report summarizing the results of each such test and promptly take appropriate action to cure all deficiencies, and resolve all problems, that are discovered as a result of each such test, performing re-testing as necessary to ensure that such cures and resolutions are effective. The occurrence of a Force Majeure Event shall not relieve Vendor of its obligations to provide disaster recovery Services pursuant to this Section and in accordance with the Disaster Recovery Plan. Except as provided in the immediately preceding sentence, and notwithstanding any other provisions related to the occurrence of a Force Majeure Event or anything else to the contrary in this Agreement, any material breach or material violation by Vendor of its obligations regarding execution of the Disaster Recovery Plan during a disaster shall be deemed an incurable and material breach of this Agreement by Vendor.

4.7 Security Management Services

Vendor shall provide and maintain all appropriate administrative, physical, technical and procedure safeguards to secure County Data from data breach, protect County Data and the Services from loss, corruption, unauthorized disclosure, and from hacks, and the introduction of viruses, Disabling Devices, malware, and other forms of malicious and inadvertent acts that can disrupt County's access and use of County Data and Services. Without limiting anything set forth in the Statements of Work, such Services shall include providing a centralized Vendor security organization or group that is responsible for all aspects of such security Services, routinely performing all necessary and appropriate security assessments and evaluations, developing and implementing a best practices-based security plan (subject to

the reasonable written approval of the County) that conforms in all respects to the requirements of all applicable federal, state and local laws, regulations, and ordinances relating to security, privacy, or confidentiality, ensuring compliance with County and County security policies and procedures provided or made available to Vendor, performing all necessary and appropriate security-related audits and reports, and promptly providing County with a full and complete copy of each such report.

4.8 Technology Refresh Plan

The Technology Refresh Plan, attached as Attachment I hereto, describes in detail Vendor's commitments to periodically refresh, at no additional cost to the County, the technology used to deliver the Services or otherwise in connection with the County's IT environments. Vendor shall provide to County an initial draft of the Technology Refresh Plan for County's review and approval no later than one hundred twenty (120) calendar days following the last Service Commencement Date. If County suggests changes to the Technology Refresh Plan, the Parties shall discuss such changes in good faith and shall endeavor to finalize the Technology Refresh Plan no later than sixty (60) calendar days following the submission by Vendor of the initial draft. At least forty-five (45) calendar days prior to each anniversary of the last Service Commencement Date, Vendor shall revise the Technology Refresh Plan as appropriate to reflect any changes to such environment, and related requirements, and submit such revised Technology Refresh Plan in writing to the CIO for review and comment. Within thirty (30) calendar days after receipt of such revised Technology Refresh Plan, the CIO shall notify Vendor in writing whether such revised plan shall have been accepted by the CIO, in his reasonable discretion, or otherwise describe in reasonable detail the deficiencies of such revised plan, in which latter case Vendor shall have an additional period of fifteen (15) calendar days to make further revisions and resubmit such revised plan to the CIO for review, comment and, when such revised plan is reasonably acceptable to the CIO, approval. Such obligations of Vendor to refresh technology shall continue according to the schedule set forth in the Technology Refresh Plan until expiration or termination of the Term, including continuation throughout any renewals or extensions of the Term. For example, in no event shall Vendor be excused from any scheduled technology refreshment obligations scheduled to be performed in the final months of the Term, as such Term may have been renewed or extended. Vendor shall be obligated to refresh technology at no additional cost to the County so long as the original Technology Refresh Plan is adhered to. Upon the implementation of each revised Technology Refresh Plan, there may be an appropriate adjustment in Fees to the extent that Vendor's obligations thereunder are changed from those under the original Technology Refresh Plan.

4.9 Service Levels

4.9.1 Service Level Commitment

Except as otherwise specified in this Agreement, from and after the respective dates set forth for the effectiveness of the Service Levels set forth in Schedule 4, Vendor shall perform each of the Services at levels that are equal to or better than the highest or best of (a) the Service Levels applicable to such Services, or (b) the accepted industry norms applicable to the performance of such Services by top-tier service providers, if such industry norms are documented and verifiable. Vendor shall be responsible for meeting or exceeding the applicable Service Levels even where doing so is dependent on the provision of Services by Subcontractors or other non-Vendor Personnel. The Service Level methodology applicable to the Service Levels is set forth in Schedule 4. Any resources or Machines utilized by Vendor pursuant to the terms hereof shall incorporate methods permitting measurement of all performance-related Service Levels. Vendor shall measure and compare the actual or observed performance resulting from Vendor's performance of the Services with the Service Levels during each month. Vendor shall prepare and deliver or make available to the CIO, by the tenth (10th) Business Day of the following month, a Service Level report in a format to be agreed to by the CIO and Vendor.

4.9.2 Monitoring and Measuring Tools and Processes

Vendor shall implement measurement and monitoring tools and produce the metrics and reports necessary to measure its performance against any of the Service Levels and shall deliver to County such reports in accordance with the frequency set forth in Schedule 4. Upon request in connection with an audit, and at no additional charge to the County, Vendor shall provide the County or its designees with information and access to tools and procedures used to produce such metrics.

4.9.3 Changes to Service Levels

In addition to Vendor's continuous improvement obligations set forth in Schedule 4, the Parties shall review and discuss possible adjustments to the Service Levels from time to time, but not less frequently than at the end of each Agreement Year. Within thirty (30) calendar days after the end of each Agreement Year, the County may propose reasonable and appropriate adjustments or changes to the Service Levels to Vendor in writing, in accordance with Schedule 4. Vendor shall review each such proposal, and notify County in writing of any reasonable objections within ten (10) calendar days. The Parties shall then use all commercially reasonable efforts to negotiate in good faith to resolve any differences regarding such proposed changes and implement a version of such proposed changes that is acceptable to each Party. Changes in Service Levels may require the approval of the County's Board of Supervisors ("**Board**"). Throughout the Term, Vendor shall also continuously evaluate Service Levels and Service Level performance, providing County with written suggestions for proposed changes at least once every six (6) months. Vendor shall also make any new and better ways to improve, or to measure and monitor, its performance that it discovers promptly available to the County.

4.9.4 Fee Reductions

(a) General. Schedule 4 specifies certain Fee Reductions that will be applicable with respect to Vendor's actual performance as measured against the Critical Milestones and the Service Levels. The Parties agree that the Fee Reductions reflect the diminished value of the Services as a result of any Vendor failure to timely achieve a Critical Milestone and/or to provide the Services in accordance with the SLRs, and accordingly do not constitute nor shall be construed or interpreted as penalties. Fee Reductions shall in no event be the sole and exclusive remedy of County with respect to any failure of Vendor as described in this Section.

(b) Annual Review. During the annual Service Level review conducted by the Parties, the CIO shall have the right to: (i) change the Weighting Factors assigned to any Service Level and/or Critical Milestone; (ii) make adjustments to the Service Levels; and (iii) for any new Service Levels and Critical Milestones that will be applicable during the upcoming Agreement Year, establish Weighting Factors for each such Service Level and Critical Milestone. Notwithstanding the foregoing, new SLRs may be added for new Services at any time by mutual agreement of the Parties.

(c) Quarterly Adjustments. Without limiting any other terms herein contained, the CIO shall have the right, not more often than once quarterly, to unilaterally adjust the Weighting Factors assigned to any Service Level or Critical Milestone on sixty (60) calendar days' notice to Vendor.

(d) Calculation of Fee Reductions. All Fee Reductions will be calculated on a monthly basis in accordance with the terms set forth in Schedule 4 and reflected on the applicable monthly invoice to County.

4.10 Root Cause Analysis, Predictive Analysis and Resolution

4.10.1 Process

Upon Vendor's discovery of, or, if earlier, Vendor's receipt of a notice from the County in respect of,

(a) Vendor's failure to meet a SLR or Critical Milestone, or

(b) Vendor's failure to provide the Services, or to operate, support, and maintain the Systems, in accordance with the SLRs, Critical Milestones and this Agreement,

Vendor shall within twenty-four (24) hours from the date of such failure immediately, commence performing a Root Cause Analysis to identify the cause of such failure and (i) in the case of a failure described in clause (a) above, complete all work and activities associated with such Critical Milestone or SLR, (ii) in the case of a failure described in clause (b) above, correct such failure, and (iii) provide County with a written report describing in detail the cause of, and procedure for correcting, such failure(s) and providing the County with reasonable evidence that such failure(s) will not recur. In the event Vendor determines that the correction of an identified failure would require the purchase of replacement equipment or other assets which are within County's financial responsibilities (as set forth in the Financial Responsibilities Matrix (Attachment P)), then Vendor shall inform County as soon as reasonably practical, and County shall make a determination as to whether to approve the purchase. If County approves the purchase of replacement equipment or other assets, then Vendor will invoice County for the purchase price in accordance with Schedule 3. The process described in the preceding sentence shall be completed no later than fifteen (15) calendar days from the date of the applicable failure to the extent reasonably practical. The correction of any such failure shall be performed entirely at Vendor's expense unless it has been determined, by mutual agreement of the Vendor and CIO or through the dispute resolution procedures set forth herein, that Vendor was not a material contributing cause of such failure or that a breach or default by the County (or any agent, subcontractor, or other third party under the direction and control of the County), with regard to any of its duties and obligations under this Agreement, was material contributing cause of such failure, and that Vendor could not have reasonably avoided, worked around, or promptly mitigated the effects of, such failure without expending a material amount of additional time or resources.

4.10.2 Pending Disputes

Unless otherwise directed by the County, and notwithstanding the pendency of any Disagreement or Root Cause Analysis as to the cause of a defect, malfunction, or difficulty, Vendor shall, take prompt and reasonable steps to correct such defect, malfunction, or difficulty at its sole cost, subject to Section 4.10.1 of the Agreement.

4.10.3 Compatibility of Resources

Vendor shall ensure that the Systems, all Services, and all Software, Assets, hardware, equipment, and other resources and materials (collectively, the "**Vendor Resources**") that are provided by Vendor to the County, otherwise utilized by Vendor, or approved by Vendor for utilization by the County, in connection with the use or operation of the Systems, or with the providing or receiving of the Services, shall be successfully and fully integrated and interfaced, and shall be compatible, with, all applicable County Software and all other applicable Software, services, systems, items, and other resources (collectively, the "**County Resources**") that are owned by or leased or licensed to the County, or that are provided to the County by third party service providers. To the extent that any interfaces need to be

developed or modified in order for the Vendor Resources to integrate fully and successfully, and be compatible, with the County Resources, Vendor shall be responsible for the development or modification of such interfaces and for such integration, and all such activities shall be deemed to be Services within the scope of this Agreement.

4.10.4 Integration and Cooperation

Vendor shall work with the County and with County's other service providers to coordinate the provision of Services and the use, operation, support, and maintenance of the Systems with the services and systems of such other service providers. Such coordination shall include: (a) facilitating with such other relevant service providers the timely resolution of all problems that may arise and impact the Systems or the Services or the respective use, operation, support, maintenance, or provision thereof, regardless of the actual or suspected root cause of such problems; (b) providing information concerning any or all of the Vendor Resources or the data, computing environment, and technology direction used in operating, supporting, and maintaining the Systems and providing the Services; and (c) working with the County's other service providers in the integration of the Systems and the Services with the County Resources in the County's environment and, as reasonably requested, the integration and interfacing of the services of such other service providers with the Systems and the Services, including, without limitation, Asset management and incident management.

4.11 Viruses; Disablement

Vendor shall use industry best practices regularly to identify, screen, and prevent any Disabling Device in resources utilized by Vendor or the County (if managed by Vendor) in connection with the provision or receipt of the Services and shall not itself knowingly or intentionally install (and shall prevent its Subcontractors from knowingly and intentionally installing) any Disabling Device in resources utilized by Vendor, the County, or any Subcontractor, in connection with the provision or receipt of the Services. A "**Disabling Device**" is a virus, timer, clock, counter, time lock, time bomb, or other limiting design, instruction, or routine that would purposely and inappropriately erase data or programming or cause any resource to become inoperable or otherwise incapable of being used in the full manner for which such resource was intended to be used, and any device that may be used as a host to access County information or launch attacks on County Systems.

Vendor shall assist the County in reducing and mitigating the effects of any Disabling Device discovered in any resource related to the provision or receipt of the Services, especially if such Disabling Device is causing a loss of operating efficiency or data. Timers, clocks, counters, and time locks included as part of any commercial Software, used by the County, by the manufacturer of that Software shall not be considered Disabling Devices for purposes of this Section.

4.12 ISO 9000 Standards

Vendor shall utilize procedures and processes that are consistent with ISO 9000 certification (or such certification class as shall succeed ISO 9000, as applicable) with respect to its provision of the Services and shall continually ensure that all of its procedures and processes comply with the requirements of such certifications or successor certifications. In addition, Vendor shall ensure that it, its employees, agents, and Subcontractors take no action that results in the County losing any ISO 9000 or similar quality certification in existence as of the Effective Date, or which the County obtains or seeks to obtain after such date.

4.13 Satisfaction and Communications

County, or a third party engaged by County, shall conduct satisfaction surveys semi-annually during the Term, or more frequently as the County may reasonably request. Vendor shall provide reasonable assistance to County to: (a) identify the appropriate sample of persons, including End Users, who shall receive such surveys; (b) distribute the surveys to such persons; and (c) encourage participation in completing such surveys, in order to obtain meaningful results. County shall gather, analyze, and evaluate the results of the surveys, and such results shall be reviewed with the Vendor Relationship Manager. County, with Vendor's assistance, shall develop an IT improvement plan, which shall propose changes to the County's and Vendor's IT policies and practices that incorporate the results of, and reflect information learned from, the satisfaction surveys. Such IT improvement plans, and the results achieved through the use thereof, shall be reviewed by the Parties, and such plans modified appropriately, not less frequently than once each Agreement Year.

4.14 Non-Exclusivity

Nothing herein shall prevent the County from providing for itself or obtaining from any third party, at any time during the Term or thereafter, the Services, the Deliverables, or the Systems, or any type of products or services in any way analogous, similar, or comparable to the Services, the Deliverables, or the Systems, as applicable, or any other products or services. Nor shall anything in this Agreement be construed or interpreted as limiting the County's right or ability during the Term to increase or decrease its demand for Services hereunder. In the event that the County elects to provide for itself (or engage third parties to provide for it) any IT services not provided under this Agreement, Vendor shall provide to the County, or its chosen service provider, reasonable cooperation, assistance, and access, as necessary (to the employees of Vendor and Vendor's Subcontractors, and to the Locations and the IT infrastructure of the Systems), to facilitate the integration and interfacing of such other IT with the Systems, the Services, and the Deliverables.

4.15 Location of Performance

Except where Vendor obtains the CIO's prior written approval, or as agreed to between Vendor and an Eligible Customer, Vendor shall perform all of the Services only from or at Locations within the continental boundaries of the United States.

5. USE OF FACILITIES

5.1 Facility and Location-related Obligations

- (a) Except as expressly provided in this Agreement, Vendor shall use any County facilities provided or made accessible to Vendor during the Term ("**County Facilities**") for the sole and exclusive purpose of providing the Services to County. Use of County Facilities by Vendor does not constitute a leasehold interest in favor of Vendor.
- (b) Vendor shall use the County Facilities in a reasonably efficient manner.
- (c) Vendor, and its Subcontractors, employees, and agents, shall keep the County Facilities in good order, shall not commit or permit waste or damage to such facilities, and shall not use such facilities for any unlawful purpose or act. Vendor shall comply with all applicable laws and regulations, including all of the County's standard policies and procedures, including procedures for the physical security of the County Facilities.

- (d) Provided that the County adheres to any mutually agreed upon security procedures implemented by Vendor at the County Facilities, Vendor shall permit the County and its agents and representatives to enter into those portions of County Facilities occupied by Vendor staff at any time to perform facilities-related services.
- (e) Vendor shall not make any improvements or changes involving structural, mechanical, or electrical alterations to the County Facilities (including, without limitation, any work affecting any alarm systems at a Location) without the CIO's prior written approval.
- (f) When the County facilities are no longer required for performance of the Services, Vendor shall return such facilities to the County in substantially the same condition as when Vendor began use of such facilities, subject to reasonable wear and tear.
- (g) Vendor shall not cause the breach of any lease agreements governing use of the County Facilities provided Vendor is informed of any relevant terms and conditions of the leases that would cause such a breach to occur.
- (h) The County shall provide and maintain, for all County Facilities, adequate heating, ventilation, and air conditioning, electrical connections (to the wall plate), safety and security equipment, and connections to any facility-wide uninterruptible power supply. The County shall provide Vendor with reasonable notice of proposed changes to any of the foregoing that may adversely affect Vendor's hardware located at any such facility and, in such cases, Vendor must relocate such hardware and the County shall reimburse Vendor for its actual costs incurred directly in connection therewith. To the extent provided by the County, the County shall maintain any site-wide uninterruptible power supply that is dedicated to support any County facility. Vendor shall provide and maintain any uninterruptible power supply dedicated to Vendor's hardware and shall provide and maintain all connections from the wall plate to the hardware used to provide the Services.
- (i) Vendor shall notify the County prior to adding or removing any hardware that will require modification of any Location and shall provide the County, for its review and approval, detailed plans and specifications conforming to the hardware manufacturer's requirements. In addition, whenever the Vendor installs, modifies or removes any wiring or cabling at any County facility, the Vendor shall annotate the blueprints corresponding to such County Facility and provide the County with a set of "as built" blueprints in both electronic and hard copies.
- (j) For any locations added by the County after the first Service Commencement Date, Vendor shall provide the County, for its review and approval, detailed plans and specifications conforming to the hardware manufacturer's requirements that are necessary for the Vendor to provide the Services to such County Facilities.
- (k) Vendor shall not be responsible for identification or abatement of asbestos-containing material in County -owned or controlled locations. Upon Vendor's request the County shall provide Vendor with a list of locations known by the County to contain asbestos. Vendor shall cooperate with the County to establish procedures and protocols when performing activities that may disturb or cause the disturbance of asbestos-containing material including pulling cable, establishing cable runs, or removing floor coverings. Vendor shall provide asbestos-awareness training to all Vendor and Subcontractor employees that perform activities at any location that could disturb or cause the disturbance of asbestos-containing material.

- (l) Excluding items, equipment and/or Assets purchased on behalf of the County by Vendor for sale or resale to County by Vendor, any item of equipment or Assets stored for any period of time by Vendor at any County Facility or premises prior to the item of equipment or Assets being implemented under the Agreement, Vendor maintains all risk of loss, liability, and damage as to any such items of equipment and Assets and no risk or liability for damage or loss of any kind as to such equipment or Assets shall be passed to or incurred by County prior to both the equipment or Assets being implemented under the Agreement and title having been transferred to County as to the item of equipment or Assets. Vendor acknowledges and agrees that it is electing to store items of equipment and Assets on County Facilities and premises prior to implementation under the Agreement and transfer of title for the items to County for Vendor's convenience and that the County Facilities and premises at which such items are stored are "as is; where is" without warranties of any kind, express or implied and there is no lease or other rights in the County Facilities or premises granted to Vendor by County.

5.2 Joint Occupancy Agreement

The Parties acknowledge and agree that the terms and conditions of the Joint Occupancy Agreement (the "JOAs") for the court facilities apply to Vendor's performance of Services in Court Facilities. To the extent Vendor is uncertain of the application of JOAs to Service to be performed by Vendor, Vendor will request clarification by the CIO.

6. PROVISION OF RESOURCES BY COUNTY

6.1 Assigned Tasks

The County agrees to perform all tasks specifically and expressly assigned to it in this Agreement, or in any Schedule, Attachment or Appendix hereto, and may, in its discretion, use other competent, qualified and experienced contractors or subcontractors to perform any such task.

6.2 Office Space and Furnishings

The County shall make available to Vendor Personnel and Vendor's Subcontractors such reasonably unencumbered access at certain Locations, as are reasonably necessary and appropriate for them to perform the Services and perform Vendor's obligations under this Agreement, at the County's facilities and premises (other than those leased by Vendor pursuant to this Agreement), in a manner similar to that in which the County makes such access, space, furnishings, and storage space available to its own employees performing similar work. All such office space, furnishings, and storage space, and all Assets and facilities installed or operated on the County's premises, are provided "AS IS, WHERE IS," without warranties of any kind, express or implied, and are to be used by Vendor exclusively as necessary and appropriate for the performance of Vendor's obligations under this Agreement.

6.3 Additional Resources

Vendor shall be responsible for all computers, mobile devices, and mobile telephone charges (including all usage-based charges) incurred by Vendor Personnel. To facilitate the Transition and the start of Service Commencement the County will provide SAIC access to existing legacy County computers to support the SAIC program team for a period not to exceed ninety (90) calendar days from Service Commencement. The County will be responsible for all landline telephones, local

and long distance charges (within the continental United States), duplication, County network connections and such fobs, tokens or other authentication device(s) as are necessary for Vendor personnel to perform the Services. In addition, the County shall provide Vendor with reasonable access to the County's personnel as necessary and appropriate for Vendor to fulfill its obligations under this Agreement, and shall be available upon reasonable advance notice for meetings and consultations with Vendor Personnel. Except as otherwise specified in this Agreement, and in accordance with the Statements of Work, Vendor shall be solely responsible for providing for itself, at no cost or expense to the County, such office space, network access, utilities (e.g., HVAC , electrical power, water, and ordinary, daily janitorial services), data processing equipment, telecommunications lines and equipment, telephones, telephone and computer connections, parking (inclusive of costs to park at County facilities), furniture, furnishings, and storage space as Vendor may require in order to perform the Services. All Vendor Personnel will use County provided emails when Vendor Personnel is conducting work on behalf of the County.

7. RELATIONSHIP MANAGEMENT

7.1 Status Reports

The governance procedures for this Agreement are described and set forth in the relationship management schedule (Schedule 1). Periodically during the Term of this Agreement, but not less frequently than once each month, Vendor shall deliver to the County's Relationship Manager a written report summarizing the progress of the Services and the operation of the Systems during the preceding month, including problems that have occurred and could delay Vendor's performance of anticipated activities and expected problems during the upcoming month (each such report, a "**Status Report**"). At a minimum, each Status Report shall include: (a) the current status and progress of the performance of the Services and the ongoing operation, support, and maintenance of the Systems, and an assessment of how such status and progress compares to the Critical Milestones, the Transition Plan, and any other schedules or deadlines set forth in the Statements of Work; (b) any actual delays; (c) any reasonably anticipated delays; (d) any failures, or correction of any failures; and (e) such other information as the County may reasonably request from time to time. Notwithstanding the foregoing, Vendor shall immediately notify (but in no event more than five (5) Business Days after Vendor first knew of such obstruction or delay) the County's Relationship Manager, in writing, in the event that Vendor is materially obstructed or delayed in its performance of the Services, or the operation, support, or maintenance of the Systems, as a result of any act, omission, delay or other cause.

7.2 Status Meetings

During the Term, representatives of the Parties shall meet periodically as set forth in Schedule 1 or as requested by the County to discuss matters arising under this Agreement. Each Party shall bear its own costs in connection with the attendance and participation of such Party's representatives in such meetings. The place and time, and whether to meet via teleconference or in person, shall be as determined as mutually agreed upon by the Parties.

7.3 Governance Model

The Parties will manage their relationship under this Agreement using the governance model in Schedule 1.

7.4 Change Management Process

7.4.1 In-Scope Work Order

If the County requires the performance of Services that are within the scope of Services described in this Agreement and the Statements of Work, but that are not then being performed by Vendor, the County's Relationship Manager shall deliver to the Vendor's Relationship Manager a written Type 1 or Type 2 In-Scope Work Order that describes the Services that the County desires to be performed, with sufficient detail to enable Vendor to readily understand and comprehend such request. Upon receipt of such a Type 1 or Type 2 In-Scope Work Order, Vendor shall promptly take all necessary and appropriate action to perform the requested Services in accordance with such In-Scope Work Order (or, if no timetable for performance is specified therein, as soon as commercially reasonable), keeping the County reasonably apprised of the status of such performance and notifying the County of when such In-Scope Work Order has been fulfilled or if any problems are encountered. If Vendor receives a Type 1 or Type 2 In-Scope Work Order with regard to which there is some question or problem that prevents Vendor from complying with the procedure described above in this Section, then Vendor shall promptly contact, and discuss the matter appropriately with, the County's Relationship Manager. The Parties understand and agree that all work requested in an In-Scope Work Order shall be within the scope of the Services and the Fees set forth in Schedule 3 hereto. The Parties shall also maintain a mutually agreed-upon change management procedure, which shall be included in the Procedures Manual.

Notwithstanding the above, Services classified as Other Services as defined in Schedule 3, Fees, Section 5.0, Hourly Service Fees, shall be considered by the Parties as in-scope Services. Application of Other Services Fees shall be in accordance with Schedule 3, Fees, Section 6.0, Other Services Fees.

Upon County's election, the County's Relationship Manager shall deliver to the Vendor's Relationship Manager Type 1 or Type 2 Other Services Work Order for a proposal to implement such Other Services, specifying the proposed change(s) with sufficient detail to enable Vendor to make an initial evaluation. Within ten (10) Business Days (or, if the requested change cannot reasonably be evaluated within such time period, then such longer period of time as mutually agreed by the Parties) after the date of such request, Vendor shall provide the County with a written evaluation of such Other Services Work Order and a written proposal containing, at a minimum, the following: (a) detailed specifications, implementation plans (with implementation to commence not later than thirty (30) calendar days after the County's approval (if any) of such Other Services Work Order, unless otherwise mutually agreed by the Parties), work schedules, timeframes for performance, and acceptance criteria; and (b) a price quote of the fees that Vendor would charge to implement such Other Services Work Order, whether on a flat fee basis, a time-and-materials basis or, at the hourly rates set forth in Schedule 3 for the applicable job classifications of the Vendor Personnel that would be performing the Services necessary for such implementation (the "**Hourly Rates**"). The proposal shall constitute Vendor's firm offer, irrevocable for ninety (90) Business Days (or such longer period as required by such proposal, the "**Response Period**"), to perform such services as described in such proposal upon the terms and conditions set forth therein.

Prior to the expiration of the Response Period, the County's Relationship Manager, shall notify Vendor in writing, in a form agreed to by the Parties, if the County elects to accept Vendor's proposal and proceed with implementation of the Other Services Work Order upon the terms and conditions set forth therein (any such notice, a "**Notice to Proceed**"). If, within the Response Period, the County gives notice to Vendor not to proceed, or fails to give any notice to Vendor, then Vendor's proposal shall be deemed rejected and the Other Services Work Order shall be deemed withdrawn, and Vendor shall take no further action with respect to either. Upon the County's issuance of a Notice to Proceed during the Response Period, as described above, Vendor's proposal shall be deemed accepted by the County and the terms and conditions thereof (as modified by written mutual agreement of the Parties in negotiations prior to issuance of such

Notice to Proceed) shall be deemed to constitute such Other Services Work Order. Notwithstanding the foregoing, no Other Services Work Order, proposal, or Notice to Proceed shall become binding upon either the County or Vendor, and the County shall not be obligated to pay Vendor for any Services described in, or performed pursuant to, any such documents, unless and until the applicable Other Services Work Order related to a Notice to Proceed issued in accordance with the provisions of this Section is signed by a duly authorized representative of each Party. All Other Services Work Order shall be governed by the terms and conditions of this Agreement except as expressly specified otherwise by the terms of such Other Services Work Order. Other Services Work Order must be executed by authorized representatives of the Parties to be valid. The CIO shall have the authority to reject any and all Other Services Work Order proposals.

The general template for In-Scope Work and Other Services Type 1 and Type 2 Work Orders is set forth in Attachment S to this Agreement.

7.4.1.1 Type 1 Work Orders

Type 1 Work Orders may only be used to acquire Services that are within the scope of Services described in this Agreement and the Statements of Work, but that are not then being performed by Vendor, and Other Services when the following conditions are met:

- (A) The services to be provided directly enable the modification, extension, or material enhancement of the Services under the Agreement.
- (B) The preliminary value to County for such services is less than the amount listed in the then current County Contract Policy Manual §3.3-102(1)(a) as requiring Board of Supervisors approval. Amendments to a Type 1 Work Order that cause the cumulative value of the Work Order to be in excess of the amount listed in the then current County Contract Policy Manual §3.3-102(a)(1) as requiring Board of Supervisors approval must be approved by the Board, and depending on the nature of the change may be changed to a Type 2 Work Order.
- (C) The Work Order is only (1) to describe in detail the Services that will be provided under such Work Order, including the functions and features of the Services, how and where the Services will be performed, the timing of the Services, including implementation, testing, and deployment, and an identification of the resources that will perform the Services; (2) any new pricing for the Services being acquired under such Work Order (for the avoidance of doubt, without modifying and subject to the terms of Schedule 3 and otherwise under the Agreement); and (3) such terms reasonably necessary to implement the items in (1) and (2) above. No other changes affecting the Agreement are authorized except as approved by the Board.

Type 1 Work Orders must be approved by County. Any Type 1 Work Order that is not approved in writing by County shall not be binding on the County, and shall not establish any obligation, liability, fee, cost, expense, or charge for the County, until so approved. All changes to a Type 1 Work Order require CIO approval, except an increase in price to a Type 1 Work Order to an amount greater than the then current County Contract Policy Manual §3.3-102(1)(a) will require written approval from the County's Board.

7.4.1.2 Type 2 Work Orders

Type 2 Work Orders may only be used to acquire Services that are within the scope of Services described in this Agreement and the Statements of Work, but that are not then being performed by Vendor, and Other Services when the following conditions are met:

- (A) The services to be provided directly enable the modification, extension, or material enhancement of the Services under the Agreement; and
- (B) The preliminary value to County for such services is equal to or greater than the amount listed in the then current County Contract Policy Manual §3.3-102(1)(a) as requiring Board of Supervisors approval.

Type 2 Work Orders must be approved by the County's Board as an Amendment to this Agreement. Any Type 2 Work Order that is not approved in writing by the County's Board as part of an Amendment shall not be binding on the County, and shall not establish any obligation, liability, fee, cost, expense, or charge for the County, until so approved. All changes to a Type 2 Work Order require CIO approval, except an increase in price which must be approved in writing by the County's Board.

7.4.1.3 No Fee Work Orders

County may determine that certain Services that are within the scope of Services described in this Agreement and the Statements of Work, and that are being performed by Vendor, are best managed as a project and such Services do not constitute Other Services. In the event County desires to have such Service activities managed as a project, regardless of whether the activities have been submitted to Vendor through a Service Request, County shall inform Vendor of its intent to have Vendor manage such activities as a project through the issuance of a No Fee Work Order.

The general template for a No Fee Work Order is set forth in Attachment T to this Agreement.

7.4.2 Deemed In-Scope Work Orders

(a) With the exception of Services provided under the Application Development and Maintenance Services as Vendor Blended Hourly Rates, should the County have an incidental requirement that would not require special management, such as a dedicated project manager, on the part of the Vendor and that requirement can be met through the use of existing work capacity and technical skill sets of the existing Vendor staff without impacting the Vendor's ability to meet the Vendor's obligations under this Agreement or the County is prepared to provide the Vendor relief from such obligations and/or extend the time period for the performance of the requirement to such an extent that it allows the Vendor to use the existing work capacity of the existing staff then the requirement shall be considered a component of the Services and the Vendor shall provide that requirement for no additional charge to the County. Any such agreement shall be by mutual agreement of the Parties and shall be documented as an In-Scope Work Order with clear definition of time periods, deliverables, obligation relief of the Vendor, and constraints, as applicable.

(b) Notwithstanding anything to the contrary provided in Section 7.4.2(a) herein if (i) the County at any time during the Term requests services, products, or resources from Vendor which the County reasonably believes to be within the scope of the Services and the Fees set forth in Schedule 3, and the Parties cannot agree as to whether such services, products, or resources are within the scope of the Services, and (ii) the financial impact on Vendor of satisfying such request, when aggregated with all other requests disputed under this Section 7.4.2(b) in an applicable Agreement Year, is less than One Hundred Twenty-Five Thousand Dollars (\$125,000.00), then the dispute shall (1) not be deemed a Disagreement; (2) absent mutual agreement of the Parties, shall be deemed resolved in the County's favor; provided that the County provides to the Vendor a written notice expressly exercising its rights under this Section 7.4.2(b); (3) such request shall be deemed an In-Scope Work Order; and (4) all such services, products, or resources shall be provided to the County by Vendor in accordance with such In-Scope Work Order and the terms of this Agreement.

7.4.3 Out-of-Scope Work Order

If, following the execution of this Agreement, the County requires the performance of services that are not expressly within the scope of Services described in this Agreement, the Parties may undertake the process outlined in this Section to incorporate such services in order to expand, adjust or update the scope of Services under this Agreement. Upon County's election, the County's Relationship Manager shall deliver to the Vendor's Relationship Manager an Out-of-Scope Work Order for a proposal to implement such adjustments or updates to the scope of Services, specifying the proposed change(s) with sufficient detail to enable Vendor to make an initial evaluation. Within ten (10) Business Days (or, if the requested change cannot reasonably be evaluated within such time period, then such longer period of time as mutually agreed by the Parties) after the date of such request, Vendor shall provide the County with a written evaluation of such Out-of-Scope Work Order and a written proposal containing, at a minimum, the following: (a) detailed specifications, implementation plans (with implementation to commence not later than thirty (30) calendar days after the County's approval (if any) of such Out-of-Scope Work Order, unless otherwise mutually agreed by the Parties), work schedules, timeframes for performance, and acceptance criteria; and (b) a firm price quote of the fees that Vendor would charge to implement such Out-of-Scope Work Order, whether on a flat fee basis, a time-and-materials basis or, at the hourly rates set forth in Schedule 3 for the applicable job classifications of the Vendor Personnel that would be performing the Services necessary for such implementation (the "**Hourly Rates**"). The proposal shall constitute Vendor's firm offer, irrevocable for ninety (90) Business Days (or such longer period as required by such proposal, the "**Response Period**"), to perform such services as described in such proposal upon the terms and conditions set forth therein.

Prior to the expiration of the Response Period, the County's Relationship Manager, shall notify Vendor in writing if the County elects to accept Vendor's proposal and proceed with implementation of the Out-of-Scope Work Order upon the terms and conditions set forth therein (any such notice, a "**Notice to Proceed**"). If, within the Response Period, the County gives notice to Vendor not to proceed, or fails to give any notice to Vendor, then Vendor's proposal shall be deemed rejected and the Out-of-Scope Work Order shall be deemed withdrawn, and Vendor shall take no further action with respect to either. Upon the County's issuance of a Notice to Proceed during the Response Period, as described above, Vendor's proposal shall be deemed accepted by the County and the terms and conditions thereof (as modified by written mutual agreement of the Parties in negotiations prior to issuance of such Notice to Proceed) shall be deemed to constitute such Out-of-Scope Work Order. Notwithstanding the foregoing, no Out-of-Scope Work Order, proposal, or Notice to Proceed shall become binding upon either the County or Vendor, and the County shall not be obligated to pay Vendor for any Services described in, or performed pursuant to, any such documents, unless and until the applicable Out-of-Scope Work Order related to a Notice to Proceed issued in accordance with the provisions of this Section is signed by a duly authorized representative of each Party. All Out-of-Scope Work Order shall be governed by the terms and conditions of this Agreement except as expressly specified otherwise by the terms of such Out-of-Scope Work Order. Out-of-Scope Work Order must be executed by authorized representatives of the Parties to be valid. The CIO shall have the authority to reject any and all Out-of-Scope Work Order proposals.

7.4.4 Holdbacks

All Fees for Work Orders under this Agreement shall be allocated among the Key Milestone(s) as set forth in the Work Order for such Services ("**Key Milestone Allocation**"), with the exception of staff augmentation Work Orders. The amount allocated to each Key Milestone need not be the same; provided, however, all allocated amounts must aggregate to equal the sum of all Fees for the Work Order to which such Key Milestone(s) apply. The Key Milestone Allocation will be divided by the number of months set forth in the original Work Order or Amendment for completion of the Key Milestone ("**Key Milestone Scheduled Duration**"), and that amount shall be multiplied by sixty-five percent (65%) to

determine the “**Monthly Key Milestone Payment.**” The Monthly Key Milestone Payment will be made by County only for the Key Milestone Scheduled Duration. The remaining thirty-five percent (35%) of the Work Order Fees (“**Holdback Amount**”) will be payable as set forth in this Section 7.4.4 (Holdbacks). All amounts invoiced by Vendor for the applicable Work Orders shall be subject to the Holdback Amount. The Holdback Amount for each Key Milestone will be payable to Supplier based upon County’s written approval of such Key Milestone in accordance with the terms herein.

A Key Milestone shall be deemed approved by County for purposes of this Section 7.4.4 (Holdbacks) on the earliest date that all of the tasks, subtasks, Deliverables, goods, Services, and other work required for completion of the Key Milestone, including all Key Deliverables associated with such Key Milestone, are completed, tested for acceptability, and approved in writing by County. The determination of whether each Key Milestone has been so completed and so approved shall be made by the County’s CIO (or his or her designee) as soon as practicable after County is informed by Vendor that such Key Milestone has been completed and is given all the necessary information, data, and documentation to verify such completion. If a Key Milestone is not approved in writing by County due to its failure to meet the applicable Acceptance Criteria or tests within thirty (30) calendar days of its scheduled completion per the applicable Work Order or Amendment, the Holdback Amount will not be paid until Approval of the next Key Milestone. No accumulated Holdback Amounts will be paid as to any Key Milestone, until all preceding Key Milestones have been approved in writing by County.

7.5 Critical Milestones

7.5.1 General

The Parties recognize and agree that time is of the essence with regard to the accomplishment of those tasks and activities designated as Critical Milestones. Therefore, if Vendor fails to meet a Critical Milestone by the date corresponding to such Critical Milestone, as specified in Schedule 4, then, in addition to any other rights and remedies that may be available to the County in accordance with this Agreement, Vendor shall, at the County’s option (which may be exercised by the CIO) and at no additional cost to the County, provide such additional personnel as may be required or necessary to accomplish all activities, tasks, and Services that were associated with such Critical Milestone either: (a) as soon as commercially practicable through Vendor’s exercise of commercially reasonable efforts, if Vendor has already failed to meet such Critical Milestone; or (b) by the date corresponding thereto, as specified in Schedule 4, if such date has not yet passed. The County shall provide Vendor with notice of the occurrence of a failure to meet the Critical Milestone within ninety (90) calendar days after the County becomes aware of such failure.

7.5.2 Withholding of Fees

In addition to the remedies described herein, in the event that Vendor fails to meet a Critical Milestone, the County shall be entitled to withhold any Fees corresponding to such Critical Milestones, until such time as Vendor, through the diligent exercise of all commercially reasonable effects, has successfully achieved such Critical Milestone (except with regard to the date originally associated with such Critical Milestone).

7.6 Extraordinary Events or Circumstances

The County may, at any time, and from time to time during the Term, and as a result of an extraordinary event or circumstance, including a Force Majeure Event, provide Vendor with written notice reasonably describing such event or circumstance and directing Vendor to temporarily perform Services in an extraordinary or unusual manner (e.g., perform Services at levels above or below the Service Levels set

forth in Schedule 4) for a specified period of limited duration. The County may also, in such an event or circumstance, in its discretion, perform itself or obtain a third party to perform certain Services for the duration of such extraordinary event or circumstance, promptly informing Vendor thereof in writing. To the extent that any such action by the County causes or results in an increase or decrease in the costs or expenses reasonably and directly incurred by Vendor in the performance of the affected Services, Vendor shall promptly provide the County with written documentation, in a form and in such detail reasonably acceptable to the County, substantiating such increase or decrease in the Fees, requesting the County's attention to the matter, and the County shall either (a) pay Vendor an amount equal to the undisputed portion of any such increase, or (b) promptly receive from Vendor a credit equal to the amount of any such decrease. Any such request by Vendor for such an adjustment of Fees must be asserted in writing within sixty (60) calendar days after the date of Vendor's receipt of the County's notice regarding such extraordinary circumstance or event, or, if such event or circumstance should continue unabated for more than thirty (30) calendar days, within such additional period of time as the Parties may agree upon in writing. Pending the determination and resolution of any such adjustment, Vendor shall diligently proceed with performance of the requested, extraordinary Services. All adjustments made pursuant to this Section shall be subject to the record-keeping requirements and audit rights set forth in this Agreement.

7.7 Notice of Adverse Impact

Vendor shall promptly inform the County in writing of any failures by Vendor to comply with its obligations under this Agreement, or any other situation, that Vendor is aware of that have resulted, or is aware of that could reasonably result, in an adverse impact on the (a) Services or the County's IT operations, (b) integrity of the County's financial and other internal controls, or (c) quality or accuracy of the County's financial, accounting and human resources records. The County may assume that no such circumstances exist unless Vendor so notifies the County.

8. ACCEPTANCE TESTING

All Deliverables shall be provided to the County by Vendor in conformity with all requirements, Specifications, Acceptance Criteria, and time schedules set forth or referenced in this Agreement. Vendor shall at all times utilize complete and thorough Acceptance Testing Procedures, and appropriate Acceptance Criteria, all of which shall be subject to review and approval by the CIO, and no such activities shall be deemed completed until all Acceptance Criteria, whether set forth in this Agreement or set forth in any Schedule hereto or otherwise mutually agreed upon by the Parties in writing, have been successfully met.

8.1 Acceptance Testing

Following Vendor's notification to County that Vendor has completed any component or deliverable identified in this Agreement, including In-Scope Work Orders and Out-of-Scope Work Orders, at a mutually agreed scheduled time thereafter, County shall begin testing the component or deliverable to determine whether such component or deliverable conforms to the applicable specifications and/or standards (collectively, the "**Acceptance Criteria**"). After County has completed such testing or upon expiration of the agreed-upon testing period (the "**Acceptance Testing Period**"), County shall notify Vendor in writing either that: (a) the component or deliverable meets the Acceptance Criteria and that acceptance of such component or deliverable has occurred ("**Acceptance**"); or (b) the Acceptance Criteria have not been met and the reasons therefor. If the component or deliverable is identified as being part of a larger, integrated system being developed thereunder, then any Acceptance under the terms of this subsection shall be understood as being conditional acceptance ("**Conditional Acceptance**"), and such component or deliverable shall be subject to Final Acceptance as described below.

8.2 Cure

If County determines that a component or Deliverable does not conform to the applicable Acceptance Criteria, County promptly shall deliver to Vendor an exception report describing the nonconformity (the "**Exception Report**"). Within thirty (30) calendar days following receipt of the Exception Report, Vendor shall: (a) perform a Root Cause Analysis to identify the cause of the nonconformity; (b) provide County with a written report detailing the cause of, and procedure for correcting, such nonconformity; (c) provide County with satisfactory evidence that such nonconformity will not recur; and (d) cure the nonconformity; provided, however, that if the nonconformity is incapable of cure within such thirty (30) calendar day period then, within such thirty (30) calendar day period, Vendor shall present to County a mutually agreeable plan to cure such nonconformity within a reasonable amount of time. Upon Vendor's notice to County that Vendor has cured any such nonconformity, County shall re-test the defective component or deliverable for an additional testing period of up to thirty (30) calendar days or such other period as the Parties may mutually agree upon in writing, at the end of which period the process described in subsection (b) above shall be repeated.

8.3 Final Acceptance

Upon achievement of Conditional Acceptance for all identified components or deliverables, County shall begin testing the system that is comprised of such components or deliverables using the applicable test procedures and standards to determine whether such system performs as an integrated whole in accordance with the Acceptance Criteria. After County has completed such testing or upon expiration of the testing period (the "**Final Acceptance Testing Period**"), County shall notify Vendor in writing that: (a) the system, and all components and deliverables that are a part thereof, meet the Acceptance Criteria and that final acceptance of the system and such components and deliverables has occurred ("**Final Acceptance**"); or (b) that the Acceptance Criteria have not been met and the reasons therefor. If County determines that the Acceptance Criteria have not been so met, the process described in subsection (b) above shall be initiated, with all references to "component or deliverable" being references to the "system," and all references to the "Acceptance Testing Period" being references to the "Final Acceptance Testing Period." Neither Conditional Acceptance, Acceptance, nor Final Acceptance by County shall constitute a waiver by County of any right to assert claims based upon defects not discernible through conduct of the applicable test procedures and subsequently discovered in a component or deliverable or the system following County's Final Acceptance thereof. Nothing else, including County's use of the system, or any component thereof, shall constitute Final Acceptance, affect any rights and remedies that may be available to County and/or constitute or result in "acceptance" under general contract law, any state uniform commercial code or any other law.

9. PERSONNEL

9.1 Vendor Personnel

9.1.1 Vendor's Relationship Manager

Vendor represents that the individual designated as Vendor's Relationship Manager in Schedule 1 attached hereto is, and promises that any replacement holder of such position shall be, an experienced manager who is knowledgeable as to the County, its respective businesses, business practices, functions, and related activities, and its respective IT systems, requirements, and needs. The County shall have the right to interview, as the County deems necessary, and participate (by providing input and recommendations) in the final selection of, Vendor's Relationship Manager. Without the prior written consent of the CIO which consent shall not be unreasonably withheld, Vendor shall not: (a) designate a replacement for Vendor's Relationship Manager; or (b) voluntarily replace or reassign the individual

serving as Vendor's Relationship Manager during the first twenty-four (24) months after the date that such individual commences performing the duties of Vendor's Relationship Manager hereunder. Vendor's Relationship Manager shall at all times: (i) act as the primary liaison between Vendor and the County's Relationship Manager; (ii) have overall responsibility for directing all of Vendor's activities hereunder, directing the performance of all Services from inception through completion; (iii) be vested with the necessary authority to fulfill all of the responsibilities of Vendor's Relationship Manager described in this paragraph; (iv) coordinate the preparation of proposals and other responses to the County's requests hereunder, business plans, proposed statements of work, Specifications, Acceptance Criteria, Acceptance Testing Procedures, operating budgets, and financial terms and conditions related to any additional work to be performed by Vendor under this Agreement; and (v) coordinate and conduct periodic program review sessions with the County to discuss costs, schedules, and any relevant technical aspects of Vendor's performance under this Agreement.

9.1.2 Key Personnel

Vendor represents that the individuals and roles designated as Key Personnel in Schedule 1 attached hereto are, and shall ensure that any subsequent Key Personnel shall be, experienced professionals, possessing the appropriate knowledge, skills, and expertise to perform properly their assigned duties. With regard to each of the Key Personnel, Vendor shall not, without obtaining the County's prior written consent at least thirty (30) calendar days in advance, at any time during the first eighteen (18) months after the date that such individual commences performing Services as one of the Key Personnel hereunder: (a) voluntarily replace or reassign such individual, if doing so would require the alteration or reduction of such individual's contribution to, or involvement with, the Services; or (b) terminate the employment of such individual, except with regard to termination for "**good cause**" (which term, as used in this Agreement, means cause for termination as determined in accordance with Vendor's employment policies, consistently applied). The County shall not unreasonably withhold, condition, or delay its consent to the foregoing, and shall provide to Vendor a written explanation of any refusal to grant such consent. If any of the Key Personnel is reassigned, becomes incapacitated, or ceases to be employed by Vendor, and therefore becomes unable to perform the functions or responsibilities assigned to such person, Vendor shall promptly replace such person with another person at least as well qualified to perform such functions and responsibilities as the person being replaced, and the County shall have the right to interview and approve each such replacement, such approval not to be unreasonably withheld. The Parties acknowledge that qualifications include a mix of experience and education and that equally-qualified individuals may have different mixes thereof.

9.1.3 Additional Personnel Requirements

Vendor shall, at all times, make available appropriate and sufficient numbers and types of Vendor Personnel, in addition to Vendor's Relationship Manager and the Key Personnel, to timely perform Vendor's obligations hereunder, in accordance with this Agreement and all Schedules hereto.

9.1.4 Vendor Management Commitment

From time to time during the Term, but not less than once each Agreement Quarter, Vendor shall present and discuss with the County its current financial plans and operational plans related to this Agreement, and Vendor shall make its senior management personnel available to answer questions from the County's senior management personnel regarding such plans. In addition, at the County's request (not more frequently than twice per year and in any case at a mutually agreed time and place), the Business Unit General Manager and/or executive officers of Vendor and the County shall meet to discuss the status and general progress of the performance by Vendor pursuant to this Agreement and all aspects of the Parties' relationship.

9.1.5 Qualified Personnel

In the event that Vendor fails to meet any of its obligations with respect to the required proficiency of any Vendor Personnel, Vendor shall promptly, as directed by the County, either: (a) take such action with respect to such Vendor Personnel, including promptly providing appropriate training, education, or orientation, as necessary for such Vendor Personnel to meet the applicable requirements set forth in this paragraph; or (b) in the event that the County has notified Vendor that such Vendor Personnel does not meet the applicable requirements, remove and replace such Vendor Personnel with an appropriately qualified individual, in accordance with this Agreement, and such position shall be filled by a qualified person no later than thirty (30) calendar days following the date of removal or replacement.

9.1.6 Employee Qualification and Verification

Subject to and in accordance with applicable law, Vendor, prior to assigning an individual as Vendor Personnel and at Vendor's sole expense, shall have appropriately verified the qualifications of such individual, and including verifying employment history, conducting reference checks, verifying non-employer technical certifications or education completed or degrees awarded and performing a drug test for each Vendor Personnel. In addition, prior to Vendor Personnel providing technical Services to the County, the County shall perform within a reasonable time, at a cost to Vendor of the required background checks, not to exceed the County's direct and actual cost, for a State of California Department of Justice and Federal Bureau of Investigation fingerprint Livescan security background check (or such other security background check that replaces Livescan) that includes investigation and identification of all state or federal misdemeanor or felony convictions of such individual, and criminal charges pending against such individual, during the immediately preceding seven (7) years. The County will, at its sole expense, perform such other types of verification as reasonably requested by the County and agreed to by Vendor. Subject to the County providing Vendor an accounting of the County's direct and actual cost per each background check performed, using generally accepted accounting principles, Vendor shall reimburse the County for the above described security background check charge by providing a mutually agreed to credit to the County in Vendor's monthly invoice to the County.

9.1.7 Employee Eligibility Verification

Vendor represents and warrants that it is and will be in full compliance with all Federal and State statutes and regulations regarding the employment of aliens (as that term is defined in applicable Federal statutes or regulations) and others and that all its employees performing work under this Agreement meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Vendor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Vendor shall retain all such documentation for all covered employees for the period prescribed by the law. The Vendor shall indemnify, defend (with counsel that has not been adverse in any other legal matter with respect to County during the prior seven (7) years), and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Vendor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Agreement.

9.1.8 Non-Discrimination

In the performance of this Agreement, Vendor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage in nor permit any employees or

Subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Vendor acknowledges that a violation of this provision shall subject Vendor to all penalties imposed for a violation of anti-discrimination law or regulation, including but not limited to, Section 1720 et seq. of the California Labor Code.

9.1.9 EDD Independent Contractor Reporting Requirements

California Senate Bill 542 requires businesses and government entities to report specified information regarding independent contractors to the Employment Development Department (EDD). This information will be used by the EDD to assist in locating parents who are delinquent in their child support payments. An independent contractor is defined as a sole proprietor who is not an employee of the business or government entity for which that individual is performing a service and who received compensation and/or executes an Agreement for services performed or that business or government entity either in or outside of California.

9.1.10 Specialized Personnel

If it is necessary, in connection with the performance of the Services, that Vendor Personnel or Subcontractors be assigned responsibilities in a County Location (not including any Locations leased or subleased by Vendor from the County) that requires special health, security, or safety training, as deemed by County, then such training will be provided by the County to such individuals and Vendor shall make such individuals reasonably available for such training, with each Party being responsible for its own costs associated with such training (i.e., among other things, Vendor shall not charge the County any Fees for any amount of time spent by any of the Vendor Personnel or any Subcontractor attending or receiving such training).

9.1.11 Training

Vendor shall provide, and cause its Subcontractors to provide throughout the Term of this Agreement, all such technical and interpersonal training to the Vendor Personnel, and to any employees of Vendor's Subcontractors that are assigned to provide Services hereunder, as may be necessary and appropriate for them to collectively perform, on behalf of Vendor, all of Vendor's duties under this Agreement. In any event, the levels and extent of training provided by Vendor to the Vendor Personnel shall be at least equal to the average levels of training given to other Vendor employees holding comparable positions, under similar circumstances, and performing work of a similar nature and level of complexity.

All Vendor Personnel shall be required to complete County presented Cybersecurity Awareness Training (CSAT), for which Vendor shall reimburse County an amount, not to exceed \$10, for each Vendor Personnel that attends such training. In addition, as is reasonably necessary based upon the specific Services assignment(s) of Vendor Personnel, Vendor Personnel shall complete County presented trainings, including but not limited to trainings on the Health Insurance Portability and Accountability Act (HIPAA), and Criminal Justice Information Security (CJIS), as required by the County, in its reasonable sole discretion, and County shall be solely responsible for the cost of such training, but not for Vendor Personnel labor costs to attend such training. As agreed to above Vendor Personnel will be required to complete the above training before performing Services under this Agreement, and on an annual basis thereafter.

9.1.12 Replacement of Personnel

Notwithstanding anything to the contrary contained elsewhere in this Agreement, if the County believes that the performance or conduct of any Vendor Personnel or Subcontractor is unsatisfactory for any reason, or is not in compliance with the provisions of this Agreement, the County may so notify Vendor, and shall provide an explanation of the unsatisfactory or noncompliant performance or conduct. At the County's request, Vendor shall promptly remove such person. In such event, Vendor shall promptly replace that person with another person acceptable to the County and meeting all of the applicable requirements described in this Section.

9.1.13 County Managed or Directed Vendor Personnel

In the event the County uses Vendor Personnel to augment County staff and work under the direct management and/or direction of County Personnel, the County shall assume all responsibility and liability for the work product of those Vendor Personnel performed in accordance with the direct management and/or direction of the County Personnel and indemnify the Vendor for such work product. Notwithstanding the foregoing, in no event will the County be responsible or liable for the employment or employment status of such Vendor Personnel, including without limitation their pay, benefits or other matters addressed in Section 27.2, any actions or inactions outside of the scope of the Services expressly directed by the County, and any malfeasance, personal injury or property damage caused by such Vendor Personnel.

9.2 The County's Relationship Manager

The County represents that the individual designated as the County's Relationship Manager in Schedule 1 attached hereto is, and shall ensure that any replacement holder of such position shall be, an experienced manager who is knowledgeable as to the County, its respective businesses, business practices, functions, and related activities, and its respective IT systems, requirements, and needs. The County's Relationship Manager shall at all times: (a) act as the primary liaison between the County and the Vendor's Relationship Manager; and (b) have overall responsibility for directing and coordinating all of the County's activities hereunder; and (c) be vested with the necessary authority to fulfill all of the responsibilities of the County's Relationship Manager described in this paragraph.

9.3 Conflict of Interest

The County's policies expressly prohibit it and its employees from engaging in activities involving a conflict of interest. Vendor shall not at any time during the Term of this Agreement knowingly employ or otherwise engage any County employee for any purpose in any way related to Vendor's performance of its obligations hereunder. Vendor shall at all times exercise reasonable care and diligence to prevent any actions, circumstances, or conditions that could result in a conflict between Vendor (or any of its employees, agents, or Subcontractors) and the best interests of the County. Such efforts by Vendor shall include establishing reasonable precautions to prevent its employees, agents, and Subcontractors from making, receiving, providing, or offering to any employees of the County any gifts, entertainment, payments, loans, or other considerations that could appear to or be deemed to, or create the impression of an attempt to, influence individuals to act in a manner contrary to the best interests of the County.

9.4 Non-Solicitation of Employees

Except as otherwise expressly provided in this Agreement, during the Term and for the first twelve (12) months thereafter, neither Party shall, without the prior written consent of the other Party, directly solicit, entice, encourage, or otherwise recruit any employee of such other Party whose duties and

responsibilities include performing services directly connected with performance under this Agreement to leave such other Party's employ in order to accept employment or other engagement with the soliciting Party, its Affiliates, actual or prospective contractors, or any other Person. Notwithstanding the foregoing, the Parties acknowledge and agree that this Agreement shall not prohibit solicitations by either Party through general advertising or other publications of general circulation. In addition, upon the CIO's request, Vendor agrees that from time-to-time it will interview and consider whether specifically identified County employees having experience providing IT services to the County which experience is within the scope of Services provided by Vendor herein, has the requisite skills and experience, as specified in Vendors judgment and in accordance with its policies and procedures, for consideration of potential employment with Vendor. In no way is this Section intended, nor shall it be deemed, to restrict or limit any individual's right to seek employment, but rather this Section is intended to, and shall, prevent each Party from actively recruiting the employees of the other Party (except as provided in this Agreement), thereby depriving such other Party of vital resources, in the securing, development, training, and deployment of whom it has expended considerable time and resources.

10. AUTHORITY RETAINED BY COUNTY

10.1 General Retained Authorities

The County shall have and at all times retain the exclusive right and authority to: (a) define, determine, and control the County's IT-related policies, strategies, objectives, and goals; (b) define, determine, and alter any or all of the County's business processes; (c) define and prescribe design standards and architecture with regard to the IT platform and infrastructure for the County, and the Locations; and (d) assess Vendor's quality and performance. Vendor shall, at all times during the Term and during Disentanglement, perform and provide the Services in accordance with the strategies, processes, standards, and policies described in the immediately preceding sentence, subject to the terms of Section 13 of this Agreement. The County may consider, but shall have the right to approve or reject, in its discretion, any and all Vendor-proposed decisions with respect to any major or significant infrastructure-design, technical platform, architecture, or standards applicable to the Services or the Systems, or that could reasonably be expected to materially increase the Fees payable by the County for the Services or to materially increase the costs incurred by the County at any time in operating its business.

10.2 Contract Management Authority

Notwithstanding any reference to the County or CIO herein, in addition to the authority expressly granted to the CIO herein, the CIO shall have the full authority of the County to act in all matters of Agreement governance, management, administration, coordination, interpretation (not requiring the advice of legal counsel), provide or reject consents (except consent to assignment of Agreement), update this Agreement to provide for Assigned Contracts and/or Managed Contracts under Agreement Section 3.1, 3.2, 3.2.1, 3.2.2, 3.2.3, consent to use of shared resources under Section 3.4.1, consent to extensions of time (other than cure periods for material default by Vendor), authorize changes in Service performance Locations (other than to permit any performance outside of the United States), issue a Stop Order under Agreement section 4.3, execute In-Scope Work Orders and deemed In-Scope Work Orders (each within the scope of Agreement Sections 7.4.1 and 7.4.2), approve changes to all Type 1 Work Orders except an increase in price above the threshold for a Type 2 Work Order, approve changes to all Type 2 Work Orders except an increase in price, adopt acceptance testing processes, procedures and timelines relating to specific projects, consent to changes to Subcontractors, review, change and adjust Service Levels, Fee Reductions and Critical Milestones in accordance with Schedule 4, and approve and update all procedures, manuals, plans, reports and policies (not otherwise requiring Board of Supervisors approval).

11. FINANCIAL TERMS

As full remuneration, and the sole and entire financial consideration, for Vendor's performance of all of the Services, provision of the Deliverables, operation, support, and maintenance of the Systems, furnishing of the Vendor Personnel and required materials, addressing and resolving any Disagreements or difficulties that may arise or are encountered, and performance of all of the other tasks, activities, services, duties, and obligations of Vendor under this Agreement, and for assuming all related risks, the County shall pay to Vendor the Fees, in accordance with this Section 11.

11.1 Fees

11.1.1 General

County shall pay Vendor the Fees for the Services actually performed by Vendor in accordance with the terms and conditions of this Agreement and Schedule 3 attached hereto. Except as otherwise expressly provided in this Agreement, Vendor shall not be entitled under this Agreement to any additional or separate compensation or reimbursement, other than the Fees expressly set forth in the Schedule 3, for the performance of Services, for any costs or expenses incurred in connection with performance hereunder, for any transition fees or exit fees, or for any other type or form of fees or reimbursement. Unless otherwise agreed in writing, System changes, changes in the Services (including changes in the County's technologies, architectures and standards) and changes in the rights or obligations of the Parties under this Agreement shall result in changes in the applicable Fees only if and to the extent this Agreement, as it may be amended as provided herein, expressly provides in Schedule 3 for a change in the Fees in such circumstances or the pricing methodology expressly provides for a price change in such circumstances.

11.1.2 End User Services

From time to time during the Term, the County may request that Vendor provide Services to End Users not previously receiving such Services. Such Services shall be performed in accordance with the terms, conditions and prices (excluding any incremental, non-recurring transition or start-up activities specific to such End Users) then applicable to the provisions of the same Services to existing End Users.

11.2 Most-Favored Customer

11.2.1 Best Prices

Vendor's charges to the County for the Services, in the aggregate, shall be competitive with, or more favorable to the County than, Vendor's charges for substantially similar services to Vendor's most favored customers (i.e., those customers to whom Vendor charges its lowest prices), purchasing substantially similar volumes of such services under substantially similar circumstances and terms and conditions. For purposes of the immediately preceding sentence: (a) the circumstances to be considered in determining what constitutes "substantially similar services" are the service levels and related risk, warranties, required delivery models, terms and conditions, financial structures, and other obligations required by those customers of Vendor, the rights of Vendor under agreements with those customers, the technology base used by the customer, the specific combination and volumes of services required by the customer, the time period during which services are provided, and the overall revenue stream generated by the customer, taking into account the term of the underlying agreement; and (b) no distinction shall be made between Vendor's customers that are private entities and those that are in the public sector but excluding the U.S Federal Government. If Vendor offers to any such U.S.-based customer substantially similar services at similar (or lesser) volumes and at a price materially lower or a discount materially greater than

the applicable Fees charged to the County hereunder, then such Fees shall simultaneously be lowered by Vendor to the extent necessary to match such lower price or greater discount (or, to the extent such Fees have already been paid, Vendor shall promptly refund to the County the difference between the Fees already paid and the lower price for the time period during which such lower price has been in effect). Vendor shall notify County of the occurrence of such a lower price or greater discount as described in this Section within thirty (30) calendar days after Vendor's offering or providing such lower price or greater discount to another such customer. From time to time, but in any event no more than once annually, Vendor's State and Local Contracts Director shall, upon written request from the County, promptly certify in writing that Vendor is in compliance with this Section. Nothing herein shall require that Vendor disclose to the County, or to the County's Auditors, accountants, or attorneys, any information that Vendor is legally prohibited, by contract, statute, or otherwise, from disclosing to the County, regardless of the existence of any dispute pertaining to this Section.

11.3 Invoices

11.3.1 Vendor Invoices

Vendor shall invoice the County for the Fees in accordance with the provisions of Schedule 3, but in no event more frequently than once per month in arrears no later than the fifteenth (15) day of the month. Vendor shall not invoice County, and County shall not be obligated to pay, any Fees or other invoiced amounts (including pass through expenses and any charges relating to Vendor's Subcontractors) that are not properly invoiced within sixty (60) calendar days after the end of the month in which such Fees were incurred, unless a request for an extension is Approved in writing by the County's CIO within said sixty (60) calendar days window. Credits and adjustments for any given month will be applied against the next monthly invoice after the invoice for such month. For example, Vendor's December 2006, invoice will include Fees for Services performed during November 2006, and any credits or adjustments applicable to Services performed in October 2006. Each such invoice shall be in a County approved format (or such other reasonable format as specified from time to time by the County) and, with respect to the Fees, credits, adjustments or the timeframe to which such invoice is applicable, shall set forth in reasonable detail: (a) an itemized accounting of the Fees and any applicable credits and adjustments; (b) the Services performed (e.g., each particular activity or task); (c) with respect to any Services billed on an hourly or time-and-materials basis, the number of Vendor man hours, identity of the Vendor Personnel performing such Services, and corresponding Fees attributable to each such Vendor Person's performance of such Services; (d) to permit the County to chargeback internally to the End Users, at minimum, the same organization level and same level of detail in use by County as of the Effective Date; (e) any other information or data necessary to support such Fees, credits, and adjustment. Any improperly formatted invoices may be returned by the County for correction and resubmission, provided that such return occurs timely and that the County identifies in reasonable detail what is not correct. Vendor may separately invoice the County for Fees incurred in each phase of the Agreement (i.e., operation of Services during Transition, Transition, and operation of Services after Transition).

11.3.2 Eligible Customer Invoices

Vendor shall prepare separate invoices for each Eligible Customer then receiving Services in accordance with a Subordinate Agreement.

11.3.3 Payment by County

The County (or the applicable Eligible Customer(s)) shall pay to Vendor all undisputed amounts set forth in invoices properly issued in accordance with this Section 11 within the following time frames after receipt thereof:

(a) within forty-five (45) calendar days during the Transition Period for Transition related payments as set forth in Appendix 8 of Attachment B;

(b) within sixty (60) calendar days from the period commencing on the first Service Commencement Date and ending six (6) months therefrom (“**Ramp Up Period**”); and

(c) within forty-five (45) calendar days for all invoices submitted following the Ramp Up Period. Payment terms remain net forty-five (45) days after receipt of invoice from Vendor. County may request a delay in payment of no more than sixty (60) days after receipt of invoice for no more than six (6) invoices per County fiscal year by way of email notice to Vendor’s Relationship Manager and Contract Manager.

The County may, however, withhold payment of any invoiced amounts that the County disputes in good faith, pending resolution of the matter, or otherwise as permitted in this Agreement. Vendor may submit a preliminary draft invoice to the County in order to attempt to minimize any issues that could lead to a disputed invoice. The County shall have no more than sixty (60) calendar days to make payment to Vendor following the date the payment dispute is resolved with Vendor with respect to disputes raised during the Ramp Up Period. Payments made following the resolution of a disputed invoice that was initially contested during the Transition Period or following the Ramp Up Period shall be made no more than forty-five (45) calendar days following the date such payment dispute is resolved. All payments by the County shall be made by wire transfer, unless the Parties mutually agree in writing to an alternative form or method of payment. The County shall pay Interest on any undisputed invoiced amounts that remain unpaid for seven (7) calendar days following the required payment due date. Vendor must invoice the County separately for the assessed Interest charge.

11.3.4 Set-Off

The County may set-off against any and all amounts otherwise payable to Vendor, pursuant to any of the provisions of this Agreement, any and all amounts claimed by the County in good faith to be owed by Vendor to the County pursuant to any of the provisions of this Agreement. Within twenty (20) calendar days after any such set-off by the County, the County shall provide Vendor with a written accounting of such set-off and a written statement of the reasons therefore.

11.4 Disputed Amounts

The County may withhold payment of Fees or any other charges otherwise due to Vendor under this Agreement to the extent that the County disputes such charges in good faith. In such case, the County shall provide to Vendor a reasonably detailed written explanation of the basis for the dispute and shall continue to make payments of undisputed amounts as otherwise provided in this Agreement. If any disputed amounts are later determined to have been improperly withheld (i.e., properly charged by Vendor), then the County shall be obligated to pay the withheld amount in accordance with this Agreement, until paid in full. If any paid amounts are later disputed by the County and determined to have been improperly paid (i.e., improperly charged by Vendor), then Vendor shall promptly pay the County the improperly paid amount. The failure of the County to withhold payment shall not waive any other rights the County may have with respect to disputed amounts or overpayments. Except as otherwise provided herein, any dispute relating to amounts owed by a Party hereunder shall be considered a Disagreement.

11.5 Taxes

The Fees shall be inclusive of all taxes imposed with respect to the provision of the Services hereunder, including any sales, use, excise, value-added, services, consumption, or other tax; provided, however, that the County shall not be responsible for, and the Fees shall not include, any taxes imposed on or arising from the following: (a) charges for goods and services provided by the County to Vendor in connection with this Agreement; (b) Vendor's income, revenue or property; or (c) any franchise or privilege taxes. All taxes applicable to the Services under this Agreement shall be separately itemized on any invoice.

11.6 Benchmarking

In accordance with Attachment C, Vendor shall be subject to a continuing benchmarking program of the Services, taking into consideration adjustments for reasonably comparable elements of the Services, that shall enable the County to compare the Fees and Service Levels set forth in this Agreement with, and ensure that said Fees and Service Levels are similar in price and quality to, similarly bundled service offerings of other IT service providers.

11.7 Payment upon Termination

Vendor shall submit a final completion cost or credit invoice upon (but in no event later than sixty (60) calendar days after any final audit performed by Vendor's Auditors, subject to review and audit by the County, regarding performance and outstanding payment obligations under this Agreement) expiration of the Term or any termination of the Term by the County. Such invoice shall include all unpaid Fees for Services performed by Vendor prior to the Termination Date and, solely to the extent applicable under Section 14.9, the requisite Termination Fee amount. Upon approval of such final invoice, and subject to Vendor's compliance with all material terms and conditions of this Agreement, the County shall promptly make payment of any remaining amounts due and payable to Vendor for Services rendered, provided, in the case of Termination under Section 14.5, that the final invoice does not contain any amounts attributable to the County Fiscal Year for which appropriations are not made.

11.8 Fee Reductions

Schedule 4 sets forth specified Fee Reductions that shall be granted to the County if and when Vendor's actual performance of Services fails to meet certain levels, as measured against the Service Levels. It is understood that Fee Reductions are intended to reflect the diminished value of Vendor's Services in the applicable events, but are not intended to constitute penalties or liquidated damages. In no event shall Fee Reductions be the County's sole and exclusive remedy with respect to any failure of Vendor to comply with applicable Service Levels or performance requirements.

11.9 Gain Sharing Proposals

County encourages Vendor to explore and identify opportunities to improve the Services and reduce the charges and expenses relating thereto. County and Vendor may each introduce proposals of gain sharing or similar incentive plans where Vendor is able to bring innovative value to reduce County's costs. Accordingly, each Party may use commercially reasonable efforts to propose review and, opportunities and recommendations relating to this Agreement or the Services that would result in improvement of business processes, improved efficiencies, cost saving in business processes, or other savings or reduction in costs to County without adversely affecting the Services (collectively, "**Gain Sharing Proposals**"). Such Gain Sharing Proposals shall be in writing and shall describe how County will be able to take advantage of developments in the marketplace as well as other developments that would enable County to achieve the foregoing objectives. As part of such Gain Sharing Proposals that are

identified and communicated by either Party to the other, the Party making the Gain Sharing Proposal may recommend that the Parties (whether individually or jointly) finance, up to an amount to be agreed, the research and development of any opportunities or proposals that may result in specific Gain Sharing Proposals. The Parties shall consider any Gain Sharing Proposals made by the other Party in good faith and shall provide all reasonable assistance to the other Party should the Parties mutually agree to implement such Gain Sharing Proposals. As part of the Gain Sharing Proposals proposed by Vendor, Vendor shall include, to the extent it has visibility, the cost structure for developing and implementing such Gain Sharing Proposal, with the Vendor giving transparency to all cost of the Vendor in developing and implementing such Gain Sharing Proposal. In the event that any Gain Sharing Proposals are mutually approved and agreed to by the Parties, the Parties shall agree on an equitable allocation of the costs of their respective development and implementation, applicable baselines and mechanisms for measuring benefits realized through such implementation, and an equitable allocation of such benefits realized through such implementation during the remainder of the Term of this Agreement after implementation of the Gain Sharing Proposals.

11.10 RESERVED

11.11 Creation of Possessory Interest

Pursuant to the provisions of Revenue and Taxation Code Section 107.6, Vendor acknowledges that the terms of this Agreement may result in the creation of a possessory interest. If such a possessory interest is vested in Vendor, Vendor may be subjected to the payment of real property taxes levied on such interest. Vendor shall be solely responsible for the payment of any such real property taxes. Vendor shall pay all such taxes when due, and shall not allow any such taxes, assessments, or fees to become a lien against any Location or any improvement thereon; provided, however, that nothing herein shall be deemed to prevent or prohibit Vendor from contesting the validity of any such tax, assessment, or fee in a manner authorized by law.

11.12 Performance Bond

11.12.1 Performance/Surety Bond Requirement

Within ten (10) calendar days after the Commencement of Transition, Vendor shall furnish to the County a surety bond in the amount of Ten Million Dollars (US \$10,000,000) to guaranty Vendor's faithful performance under this Agreement. Such surety bond shall be on a form approved by the CIO and shall be duly executed by Vendor and a responsible corporate surety authorized to issue such bonds in the State of California, and secured through an authorized agent with an office in the County and registered therewith. Such bond may, at Vendor's sole discretion, be issued on an annually renewable bond form acceptable to the County. Vendor shall pay all bond premiums, costs, and incidental charges associated with acquisition of such surety bond. The surety bond required by this Section shall be valid, and maintained in force and effect, from the Effective Date through the entire Term of this Agreement, renewed on an annually renewable basis as applicable, including any extensions or renewals of such Term and any periods during which Vendor is required to provide Disentanglement Services hereunder. Notwithstanding the foregoing, prior to the expiration of the then-current surety bond, Vendor will be obligated to obtain a replacement bond in the form set forth in this Section, or if the Vendor is unable to renew the bond, Vendor will provide a replacement security to the County prior to the expiration of the then-current bond. The replacement security (a) must be provided by a third party other than Vendor or an Affiliate of Vendor, (b) must, in the County's reasonable opinion, provide security equal to that provided by the bond and (c) must be in a form reasonably acceptable to the County. Vendor's failure to deliver a bond or replacement security shall constitute a Default under this Agreement; however, such Default shall not constitute a claim against the current or previous security. The bond or replacement security shall be returned to Vendor once the

Term of this Agreement has expired or been terminated and Vendor has successfully completed all of its obligations to perform Disentanglement Services hereunder, as determined by the County in its sole discretion.

11.12.2 Surety Companies

All surety bonds must be issued by a Surety Company with a minimum insurance rating of A- (Secure Best's Rating) and VIII (Financial Size Category) as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com. The surety company must also be authorized to write in California by the Department of the Treasury, and must be listed on the most current edition of the Department of Treasury's Listing of Approved Securities. A Surety Company rated lower by Best's Key Rating Guide may be accepted by the CEO/Office of Risk Management after a review of the company's performance and financial ratings. The surety bonds are to be approved by County Counsel for the County of Orange and the CEO/Office of Risk Management. If any surety upon any bond furnished in connection with this Agreement becomes unacceptable to County, or if any such surety fails to furnish reports as to surety's financial condition from time to time as requested by County, Vendor shall promptly furnish such additional security as may be required by the CIO from time the work contemplated by this Agreement. Failure to furnish such additional security shall constitute a material breach of this Agreement.

12. PROPRIETARY RIGHTS

12.1 County Works

12.1.1 Ownership by the County

All County Works, and all modifications or derivatives of such County Works, including all Intellectual Property Rights in or pertaining to the same, shall be owned solely and exclusively by the County.

12.1.2 License Grant to Vendor

As of the Effective Date, the County hereby grants, and Vendor hereby accepts, a limited, non-exclusive, non-transferable, royalty-free right and license to use the County Works during the Term, to the extent necessary and appropriate for the sole purpose of Vendor's performing the Services, providing the Deliverables, and operating and supporting and maintaining the Systems, subject to, and as provided for by, the terms and conditions of this Agreement. Vendor acknowledges that the County Works represent the valuable, intellectual property of the County. To the extent necessary for Vendor to provide the Services, such license grant extends to Subcontractors designated by Vendor that sign a written agreement to be bound by all of the terms contained herein applicable to the County Works. Vendor and its Subcontractors shall not (a) use any of the County Works for the benefit of any Person other than the County, or (b) reverse assemble, reverse engineer, translate, disassemble, decompile any of the County Works without the prior written approval of the County, which may be withheld in the County's sole discretion.

12.2 Vendor Works

12.2.1 Ownership by Vendor

All Vendor Works, and all modifications or derivatives of such Vendor Works, including all Intellectual Property Rights in or pertaining to the same, shall be owned solely and exclusively by Vendor.

12.2.2 License Grant to the County

As of the Effective Date, Vendor hereby grants, and the County hereby accepts, for the benefit of the County and any third party providers of services to the County, a perpetual, non-exclusive, fully paid, non-transferable, royalty-free license to access, use, modify, copy, adapt, display, perform and create derivative works of, the Vendor Works which have been delivered to County, but only to the extent necessary for the County to receive the full benefit of the Services during the Term and any period of Disentanglement, and thereafter solely for internal business purposes of the County, and not for commercial exploitation or resale.

12.3 New Works

12.3.1 Ownership by the County

All Work Product developed at the direction of the County, inclusive of the Reports developed by the Vendor for the County, but excluding the day-to-day operational information developed by the Vendor in the delivery of the Services, including all Intellectual Property Rights in or pertaining to the same, shall be owned solely and exclusively by the County. Vendor (a) agrees that all copyrightable aspects of such Work Product shall be considered “work made for hire” within the meaning of the Copyright Act of 1976, as amended, and (b) hereby assigns to the County exclusively all right, title, and interest in and to all Intellectual Property Rights in and to such Work Product that it may have or obtain, without further consideration, free from any claim, lien for balance due, or rights of retention thereto on the part of Vendor, and (c) acknowledges that the Parties do not intend Vendor to be a joint author of such Work Product within the meaning of the Copyright Act of 1976, as amended, and that in no event shall Vendor be deemed a joint author of such Work Product provided, however, the Vendor shall not be restricted from using its Residuals with respect to the development of such Work Product.

12.3.2 Embedded Vendor Works

To the extent that any Vendor Works are incorporated into, embedded in or made part of the Work Product, notwithstanding anything to the contrary, Vendor shall not be deemed to have assigned its Intellectual Property Rights in such Vendor Works to the County, but Vendor hereby grants to the County, for the benefit of the County and any third party providers of services to the County, a perpetual, non-exclusive, worldwide, fully paid, royalty-free license to access, use, modify, copy, adapt, display, perform and create derivative works of, such Vendor Works to the extent necessary for the County to receive the full benefit of its ownership of the Work Product.

12.3.3 License Grant to Vendor

Subject to the County’s Intellectual Property Rights in the Work Product and the Deliverables, the County hereby grants, and Vendor hereby accepts, a limited, non-exclusive, non-transferable, royalty-free right and license to use the Deliverables during the Term, to the extent necessary and appropriate for the sole purpose of Vendor’s performing the Services, providing other Deliverables, and operating and supporting and maintaining the Systems, subject to, and as provided for by, the terms and conditions of this Agreement. To the extent necessary for Vendor to provide the Services, such license grant extends to Subcontractors designated by Vendor that sign a written agreement to be bound by all of the terms contained herein applicable to the Deliverables. Vendor and its Subcontractors shall not (a) use any of the Work Product for the benefit of any Person other than the County, or (b) except to the extent necessary to perform the Services, reverse assemble, reverse engineer, translate, disassemble, decompile any of the Work Product without the prior approval of the County, which may be withheld in the County’s sole discretion.

12.3.4 Intellectual Property Protection

Vendor shall promptly and fully disclose and deliver all Work Product to the County, in writing (and, with respect to any Software component, excluding Third Party Works, in both source code and object code form), together with appropriate user manuals and all other Documentation necessary and sufficient to initially satisfy all of Vendor's related obligations under this Agreement (including the warranties set forth herein) with respect to such Work Product. Vendor shall, at the County's expense, execute and deliver any and all patent, copyright, and other applications, assignments, and other documents or instruments that the County reasonably requests for securing and protecting the Work Product and all Intellectual Property Rights therein or pertaining thereto. The County shall have the sole and exclusive power to file and prosecute such applications and other documents and to take all other similar action concerning the Work Product or their protection. As requested by the County, Vendor shall promptly and fully cooperate in a lawful manner with the County (or any third parties designated by the County), at the expense of the County, in the preparation and prosecution of all such applications and other documents and in any legal actions and proceedings concerning the Work Product.

12.4 Additional Licensing Provisions

12.4.1 License Grant to Vendor

Subject to Vendor having obtained any Required Consents, and solely to the extent of the County's underlying rights, the County hereby grants, and Vendor hereby accepts, a limited, non-exclusive, non-transferable, royalty-free right and license to use the Third Party Works during the Term, to the extent necessary and appropriate for the sole purpose of Vendor's performing the Services, providing the Deliverables, and operating and supporting and maintaining the Systems, subject to, and as provided for by, the terms and conditions of this Agreement. To the extent necessary for Vendor to provide the Services, such license grant extends to Subcontractors designated by Vendor that sign a written agreement to be bound by all of the terms contained herein applicable to the Third Party Works. Vendor and its Subcontractors shall not (a) use any of the Third Party Works for the benefit of any Person other than the County, or (b) reverse assemble, reverse engineer, translate, disassemble, decompile any of the Third Party Works without the prior written approval of the County, which may be withheld in the County's sole discretion.

12.4.2 General License Grant to the County

Vendor hereby grants to County, its employees and contractors a perpetual, worldwide, assignable, transferable, fully paid up, royalty-free, right and license to use the Software. All costs and expenses associated with the Vendor Software including, without limitation, license, maintenance and support, implementation and/or upgrade fees, shall be deemed to be included in the Fees. The license grant set forth in this Section shall further include and/or be subject to the following:

- (a) all licenses to the Vendor Software shall extend to all County employees, personnel, contractors and other authorized end users;
- (b) the license grant shall include the right to use, copy, disassemble, decompile and reverse engineer the Vendor Software to develop adaptations, enhancements and modifications to the Vendor Software;
- (c) the license grant shall include the right of Vendor to receive all updates, upgrades patches, bug fixes and new releases to the Vendor Software that are commercially available or otherwise made available to all other licensees of such Software; and

(d) the license grant shall include the right of County to sublicense the rights granted hereunder to its Affiliates, third party developers, consultants, advisors or subcontractors for performance of various tasks (as identified by and on behalf of County) limited to County's internal business purposes as contemplated by this Agreement.

12.4.3 Source Code License

Vendor hereby grants to County, a perpetual, worldwide, assignable, transferable, non-exclusive license to use the source code, object code and related documentation to the Vendor Software for use by County in order to enable County to support the provision of the Services for its benefit and that of its Affiliates. Upon the occurrence of a breach by Vendor of any of its duties, representations and warranties hereunder, County shall have the right to immediately access and use such source code, object code and related documentation to the Vendor Software in accordance with the license grant set forth in the preceding sentence.

12.4.4 Software and Data Maintenance Services

(a) Software Maintenance Services. Vendor shall update and keep current all releases of Vendor Software to the latest releases (or versions) then commercially available, and shall further provide maintenance and support services for the current release of such Software and at least two releases prior to the current version (i.e., maintenance and support for the current version and the n-1 and n-2 versions). All software maintenance and warranty services, including, without limitation, all service desk support for troubleshooting, diagnosis, correction and resolution of problems, and provision of Software updates, upgrades, bug fixes, new releases, shall be set forth in the applicable Statements of Work. The obligation to keep Software releases current and to provide maintenance and support services relating thereto shall be further set forth in the applicable Statements of Work.

12.5 Software Escrow Agreement

(a) Upon County's request, the Parties hereto shall enter into a software escrow agreement ("**Escrow Agreement**") with a third party escrow agent, which agreement shall be incorporated herein by reference. The Escrow Agreement will set forth the terms and conditions upon which the source code, object code and related Documentation of the Vendor Software will be deposited by Vendor into an escrow account, updated by Vendor, verified by County and the conditions and Triggering Events that will govern the release of such escrowed materials to County. Upon the occurrence of a Triggering Event, County shall have the right to access and use the source code, object code, related Documentation and Vendor Software in accordance with its license rights set forth herein.

(b) Notwithstanding the foregoing, the Escrow Agreement shall require Vendor to make timely deposits of all source code, object code and related Documentation of the Vendor Software, keep the escrow account up to date with all current releases and updates, provide County a right to audit the escrow account and perform a build verification of the source code, and provide County a right to access Vendor Personnel and to offer such personnel employment, upon the occurrence of a Triggering Event.

(c) For the purposes of this Agreement, a "**Triggering Event**" shall mean any of the following: (i) Vendor commits an uncured (or incurable) material breach of its performance obligations under this Agreement, (ii) Vendor makes an assignment for the benefit of creditors, (iii) Vendor files for bankruptcy (which is not dismissed within 90 calendar days) or a complete liquidation or dissolution, (iv) Vendor has a custodian, trustee, receiver or agent appointed to take possession or substantially all of its Assets, or (v) Vendor is declared or becomes 'insolvent' as that term is defined in Title 11 of the United States Code or analogous legislation in any other applicable jurisdiction.

12.6 Escrow License

Vendor grants to County a perpetual, worldwide, non-exclusive, irrevocable, fully paid-up, transferable license to use the source code, object code and related Documentation of the Vendor Software upon the occurrence of a Triggering Event as set forth in the Escrow Agreement (the “**Escrow License**”). County shall be entitled to procure maintenance and support services from third parties and shall have the right to sublicense to such third parties the right to use such Escrowed Materials for the limited purpose of providing such services to County.

12.7 Third Party Works

(a) Use in Work Product. Vendor shall not embed any Third Party Works in any Work Product, or create a derivative work of any Third Party Work as Work Product, without the express, prior written consent of the County. The County acknowledges that its ownership of such Work Product (in accordance with the provisions herein) may be subject to or limited by the terms of the underlying agreement with the owner of the Third Party Works. At the County’s direction, in the request for such consent by Vendor, Vendor will attempt to negotiate such rights and other concessions regarding such works or modifications for the benefit of the County, as the County may request. Vendor shall use commercially reasonable efforts to cause the owners of any such Third Party Works to grant to the County a right to use, and to sublicense third party service providers to use, any such Third Party Works solely and exclusively for the County’s internal business purposes or, in the case of such third party service providers, for providing services to the County;

(b) License for Use in Services. With respect to any Third Party Works Vendor desires to implement or utilize in the provision of any Services, Vendor shall use commercially reasonable efforts to secure for the County a perpetual, irrevocable, non-exclusive, royalty-free, fully paid-up, worldwide license to access, use, modify, copy, adapt, display and creative derivative works from, or receive the benefit of, any Third Party Works as necessary and appropriate for the proper conduct of the County’s business, administration and operations or for the County to receive the full benefit of the Services. If Vendor is unable to obtain any such rights and licenses, Vendor shall notify the County in advance and shall not use such Third Party Works without the County’s express, prior written consent (and absent such consent, Vendor’s use of any such Third Party Works shall obligate Vendor to obtain or arrange, for such rights and licenses for the County upon Disentanglement).

12.8 Residuals

Notwithstanding anything to the contrary provided in this Agreement, neither Party shall be precluded from using its Residuals. Without limiting the foregoing, with respect to Vendor, Vendor’s right hereunder to use any of its Residuals that are components of Work Product shall not affect, alter, limit, or interfere with any provisions of this Section 12 that provide for ownership of the Work Product itself, or the Intellectual Property Rights in or pertaining thereto, by the County.

12.9 County Data

Subject to applicable law, the County shall permit Vendor and its Subcontractors to have access to, and make appropriate use of, County Data solely to the extent Vendor requires such access and use in order to properly and appropriately perform the Services as contemplated by this Agreement. Vendor may only access and use County Data in connection with performance of its duties under this Agreement or as specifically directed by the County in writing and may not otherwise use, disclose, modify, merge with other data, commercially exploit, or make any other use of County Data or take, or refrain from taking,

any other action that might, in any manner or form, adversely affect or jeopardize the integrity, security, or confidentiality of County Data, except as expressly permitted herein or as expressly directed by the County in writing. Vendor acknowledges and agrees that, as between the Parties, the County owns all right, title, and interest in, and all Intellectual Property Rights in and to, all County Data.

12.10 Cooperation

If at any time either Party brings, or investigates the possibility of bringing, any claim against any third party for infringement of any Intellectual Property Right of such Party, including misappropriation of trade secrets and improper use or disclosure of confidential information, then the other Party, upon the request and at the expense of the requesting Party, shall cooperate with and assist such requesting Party in the investigation or pursuit of such claim and provide such requesting Party with any information in its possession that may be of use to such requesting Party in the investigation or pursuit of such claim. Notwithstanding the foregoing, if an Affiliate, client, customer, or other business associate of a Party becomes the subject of such an investigation by the requesting Party, such Party will provide reasonable cooperation to the requesting Party, to the extent not inconsistent with such Party's legal and contractual obligations to such Affiliate, client, customer, or business associate.

12.11 No Limitation of Governmental Rights

Certain federal or state agencies or other governmental entities that provide funds to the County or in connection with the County's activities and undertakings may have certain rights in the Work Product that arise under federal or state law. Therefore, Vendor hereby grants each such governmental agency or entity such rights in and to the Work Product as such agency or entity is entitled to by applicable law.

Except with regard to the transfer of certain Assets back to the County through Disentanglement, upon request by County, Vendor shall remove or erase all copies of all County Software that have been made available to Vendor in connection with the performance of the Services, whether such County Software is combined with or embodied in Vendor Software, Third Party Software, or other County Software (which is not transferred back to County) ("**Other Software Assets**") prior to selling or disposing of, in whatever manner, such Other Software Assets, or using such Other Software Assets for any purpose other than the provision of Services to the County hereunder. Vendor shall in no event transfer any copy of any such County Software to any other Machines, nor shall Vendor be able to copy or reproduce such Software. Vendor shall promptly provide the County with a certified and detailed report (including specific identification of Software items removed or erased, and serial numbers of Machines from which so removed or erased).

13. COMPLIANCE WITH COUNTY POLICIES, PROCEDURES AND GUIDELINES

13.1 County Policies, Procedures and Guidelines

Vendor shall provide all Services under this Agreement in accordance with the County Policies, Procedures, and Guidelines, and Vendor's Best Practices, provided Vendor's Best Practices do not conflict with the County Policies, Procedures, and Guidelines. County's Policies, Procedures, and Guidelines are set forth in Attachment D. The Parties acknowledge and agree that, as of the Effective Date of this Amended and Restated Agreement, Vendor is fully informed as to the County Policies, Procedures, and Guidelines. Vendor shall be responsible for the promulgation and distribution of the County Policies, Procedures, and Guidelines to all Vendor Personnel as and to the extent necessary and appropriate. Additions or modifications to the County Policies, Procedures, and Guidelines may be (A) communicated orally by County directly to Vendor or designated Vendor Personnel, (B) disclosed to Vendor and Vendor

Personnel in writing, (C) conspicuously posted at a County Location, (D) electronically posted, or (E) communicated to Vendor or designated Vendor Personnel by means generally used by County to disseminate such information to its employees or contractors at the applicable location. Vendor and Vendor Personnel shall observe and comply with such additional or modified County Policies, Procedures, and Guidelines.

13.1.1 Security and Policies

Vendor shall provide all Services, use all resources related thereto, and use, operate, support, and maintain the Systems, in a secure manner and in accordance with the County's and County's security requirements, policies, and procedures as set forth in Attachment D attached hereto and as modified, supplemented, or replaced by the County from time to time, in its sole discretion, by providing Vendor with a written copy of such revised requirements, policies, or procedures reasonably in advance of the date that they are to be implemented and effective (collectively, the "**Security Policies**"). In the event that any revision, modification, supplement or replacement of any of the Security Policies causes Vendor to incur additional expense or deploy additional resources or otherwise increase the effort required by it to fulfill its obligations under this Agreement, and Vendor so notifies County of such fact in advance and receives County's approval to proceed, Vendor shall be entitled to receive additional Fees sufficient to compensate Vendor for such additional expense, additional resources or increased effort; provided, that, to the extent practicable, Vendor shall use the process outlined in Section 4.6(i) and 4.6(ii) to manage the cost.. Vendor shall at all times use industry best practices and methods with regard to the prevention, detection, and elimination, by all appropriate means, of fraud, abuse, and other inappropriate or unauthorized access to and use of Systems and the networks involved with the provision or receipt of Services, including the implementation and deployment network management and maintenance applications and tools, the use of appropriate encryption technologies, and the other security-related Services described in this Agreement. In addition, all Vendor Personnel (including personnel of any Subcontractors) shall be subject to, and shall at all times conform to, all of the County's policies, procedures, rules, and requirements regarding the protection of premises, materials, equipment, and personnel, also as set forth in Attachment D attached hereto (and contained within the Security Policies). Vendor shall, and shall cause the Vendor Personnel and Subcontractors to, fully comply with and abide by all such Security Policies at all times during the Term. Any violation or disregard of such Security Policies by an individual Vendor Person or Subcontractor shall be cause for denial of access of such Person to the County's Systems or property. Vendor shall exercise due care and diligence to prevent any injury to person or damage to property while on the County's premises.

13.1.2 Information Access

Vendor shall at all times use appropriate safeguard and security measures so as to ensure the confidentiality and security of all County Data and those Systems Vendor is responsible for supporting or has access to. At all times during the Term, Vendor shall, and shall cause Vendor Personnel and subcontractors, and the employees or agents of any of the foregoing, to fully comply with all of County's policies and procedures regarding data access and security, including those prohibiting or restricting remote access to the County Data and Systems, as set forth in the Security Policies. County may require all Vendor Personnel performing Services under this Agreement to execute a confidentiality and non-disclosure agreement concerning access protection and data security in a form agreed to by CIO and Vendor. County shall authorize, and Vendor shall issue, any necessary information-access mechanisms, including access IDs and passwords, and in no event shall Vendor permit any such mechanisms to be shared or used by other than the individual Vendor person to whom issued. Vendor shall provide each Vendor Personnel with only such level of access as is required for such individual to perform his or her assigned tasks and functions. From time to time throughout the Term, upon request from County but at least once each calendar year, Vendor shall provide County with an accurate, up-to-date list of those Vendor Personnel having access to

County Data and Systems, and the respective security level or clearance assigned to each such Vendor person. All County Resources (including County Systems), and all data contained therein, including County Data, County hardware, and County software used or accessed by Vendor: (a) shall be used and accessed by such Vendor Personnel solely and exclusively in the performance of their assigned duties in connection with, and in furtherance of, the performance of Vendor's obligations hereunder; and (b) shall not be used or accessed except as expressly permitted hereunder, or commercially exploited in any manner whatsoever, by Vendor or Vendor's Personnel and subcontractors, at any time. Vendor acknowledges and agrees that any failure to comply with the provisions of this Section 13.1.2 shall constitute a breach of this Agreement and entitle County to deny or restrict the rights of such non-complying Vendor personnel to access and use County Data and Systems, as County, in its sole discretion, shall deem appropriate.

13.1.3 Enhanced Security Procedures

The County may, in its discretion, designate certain areas, facilities, or Systems as ones that require a higher level of security and access control. The County shall notify Vendor in writing reasonably in advance of any such designation becoming effective. Any such notice shall set forth in reasonable detail the enhanced security or access-control procedures, measures, or requirements that Vendor shall be required to implement and enforce, as well as the date on which such procedures and measures shall take effect. Vendor shall, and shall cause the Vendor Personnel and Subcontractors to, fully comply with and abide by all such enhanced security and access measures and procedures as of such date.

13.1.4 General Security Standards

Solely as to information technology infrastructure, including all computers, software, databases, and electronic systems (including database management systems) that Vendor solely manages and Vendor solely controls access to that access County Resources (including County systems), County Data or otherwise in connection with the Services ("**Vendor Systems**"), Vendor shall prevent unauthorized access to such County Resources (including County systems) or County Data through the Vendor Systems. At all times during the Term, Vendor shall maintain a level of security with regard to the Vendor Systems, that in all events is at least as secure as the levels of security that are common and prevalent in the industry and in accordance with industry best practices. As to Vendor Systems, Vendor shall maintain all appropriate administrative, physical, technical, and procedural safeguards to secure County Data from data breach, protect County Data and the Services to the extent caused by Vendor Systems, from loss, corruption, unauthorized disclosure, and from hacks, and the introduction of viruses, Disabling Devices, malware, and other forms of malicious and inadvertent acts that can disrupt County's access and use of County Data and the Services.

13.1.5 Breach of Security

Any material breach or violation by Vendor or its Subcontractors, or the employees or agents of any of the foregoing, or of the County Policies, Procedures and Guidelines regarding security, shall be deemed a material breach of a material obligation of Vendor under this Agreement, and any chronic or critical breach by Vendor or its Subcontractors, or the employees or agents of any of the foregoing, or of the County Policies, Procedure and Guidelines regarding security shall be deemed an incurable and material breach of a material obligation of Vendor under this Agreement. The Parties agree that for the purposes of this Section 13.1.5 a breach shall only be deemed material if: (a) Vendor has failed to act in material accordance with the County Policies, Procedures and Guideline regarding security, or the applicable terms of the SOWs; or (b) Vendor has failed to use industry best practices and methods in performing its obligations with respect to security services.

13.1.6 Conduct on Other Party's Premises

Each Party shall, at all times, comply with and abide by all reasonable policies and procedures of the other Party (or that may be established thereby, from time to time) that pertain to conduct on the Party's premises, possession or distribution of contraband, or the access to, and security of, the Party's real property or facilities, to the extent that the other Party has been provided with a copy of each such policy or procedure. Each Party shall exercise due care and diligence to prevent any injury to persons or damage to property while on the other Party's premises. The operation of vehicles by either Party's personnel on the other Party's property shall conform to posted and other applicable regulations and safe-driving practices. Vehicular accidents occurring on a Party's property and involving either Party's personnel shall be reported promptly to the appropriate Party's personnel. Each Party covenants that at all times during the Term, it, and its employees, agents, and Subcontractors shall comply with, and take no action that results in the other Party being in violation of, any applicable federal, state, and local laws, ordinances, regulations, and rules. Each Party's personnel shall clearly identify themselves as the appropriate Party's personnel and not as employees of the other Party. When on the other Party's premises, each Party's personnel shall wear and clearly display identification badges or tags, as approved by the other Party.

13.1.7 Information Security Reviews

During the Term, County may perform information security reviews on any County Systems, Assets, or facilities used by Vendor to provide the Services hereunder ("**Reviews**"). The Reviews may include physical inspection, external scan, internal scan, code review, process reviews, and reviews of system configurations. The Reviews may be conducted, at County's discretion and at County's expense, by County, another Affiliate, or their designees, including third party consultants or other providers retained by County. The Reviews may include unannounced penetration, vulnerability assessments, and security tests, as it relates to the receipt, maintenance, use, or retention of County's Confidential Information or County Data in which case County shall provide contemporaneous notice to Vendor. Vendor hereby grants permission to County to perform the Reviews per the agreed upon scope and methodology; provided, however, that any such Review shall be conducted by County, another Affiliate or their designees, as applicable. To the fullest extent permitted by law, Vendor hereby waives the benefit of any state or federal law which may provide a cause of action against County and its Affiliates based upon Reviews permitted under this Section 29.5 (Information Security Reviews) and conducted pursuant to the agreed upon scope and methodology. Should any Review result in the discovery of material security risks to the County Systems, Equipment, Software, networks, or facilities used by Vendor to provide the Services, County shall promptly notify Vendor of such risks, and Vendor shall respond to County in writing within three (3) days with Vendor's plan to take reasonable measures to promptly correct, repair, or modify the applicable County System, Assets, or facility to effectively eliminate such risks at no cost to County. Upon County's approval, Vendor shall implement such plan as quickly as practicable. Should Vendor fail to take reasonable measures to remedy the identified risk, County may terminate this Agreement for cause effective immediately.

13.1.8 Operation of Vendor Vehicles

The operation of Vendor vehicles or private vehicles of Vendor Personnel on the County's property shall conform to posted and other regulations and safe driving practices. Vehicular accidents on the County's property and involving County personnel shall be reported promptly to the appropriate security personnel.

14. TERM AND TERMINATION

14.1 Term

14.1.1 Initial Term

The period during which Vendor shall be obligated to provide the Services under this Agreement (the “**Term**”) shall commence on the Effective Date and end at 11:59 PM, PST on the date (the “**Expiration Date**”) that is: (a) June 30, 2027 (or, in the event of any extension of the Term, pursuant to Section 14.1.2, the last day of the last of such extensions); or (b) the applicable Termination Date, in the event of a termination pursuant to Sections 14.2 through 14.8.

14.1.2 Term Renewals

The County may, in its sole discretion, extend the Term for one (1) additional term which, may range in length from thirty (30) Calendar Days to one (1) year, in accordance with the pricing terms and conditions set forth in Schedule 3, by providing written notice delivered to Vendor at least ninety (90) calendar days before the end of the then-current Term (as such Term may have been renewed or extended, in accordance herewith). When providing written notice for such an extension, the County may, in its sole discretion, specify any portion of the Services under this Agreement that the County wishes to terminate. Notwithstanding anything to the contrary herein, there shall be no Termination Fee if the County terminates any portion of Services as part of an extension of Term under this Section 14.1.2 (Term Renewals).

14.1.3 Notifications

Unless the County shall have already notified Vendor in writing that the County is extending the Term, pursuant to Section 14.1.2, for an additional period, or the Parties shall have already reached written mutual agreement on the terms and conditions to otherwise govern an extension of the Term, Vendor shall notify County in writing within five (5) calendar days before or after the date that is one hundred eighty (180) calendar days prior to the date on which then-current Term shall expire of the approaching expiration of the Term.

14.2 Termination by the County for Convenience

In accordance with this Section, the County shall have the right to terminate for its convenience, at any time and for any reason or no reason: (a) the Term of this Agreement with regard to the Services, or (b) any portion of the Services (e.g., a Service Area or subcomponent), then being provided by Vendor. Any such termination shall be effected by the County sending to Vendor a written notice of termination specifying the extent of the Services being terminated and the intended date (the “**Termination Date**”) upon which, at 11:59 p.m., such termination shall be effective (any such notice, a “**Termination Notice**”). The Termination Date specified in any such Termination Notice sent by the County pursuant to this Section shall be at least ninety (90) calendar days after the date of such Termination Notice. Further, subject to Section 14.9 herein, County may terminate any IT Services Work Order for convenience upon providing Vendor with three (3) Business Days prior written notice. Upon any such termination of a Work Order, County’s sole liability shall be the payment of any undisputed Fees incurred through the effective date of termination. Notwithstanding the foregoing, if Vendor purchases items from a supplier for the County authorized pursuant to a fully executed Work Order, the County cannot cancel the purchase of such items unless the supplier first agrees to not charge Vendor for cancelling the purchase of such items or the County agrees to reimburse Vendor for the actual amounts charged to Vendor by such supplier. In order for the County to exercise its right to terminate under this Section 14.2, in the County Fiscal Year in which

the Termination Date occurs, the County Board of Supervisors must: (a) approve the Termination and (b) appropriate sufficient funds for the purpose of paying any Termination Fee due and payable by County to Vendor in accordance with this Agreement.

14.3 Termination by the County for Change in Control

In the event of a change of control of Vendor (as described below) resulting from a single transaction or a series of related transactions, the County shall have the right to terminate: (a) the Term of this Agreement with regard to the Services, or (b) any portion the Services (e.g., a Service Area or subcomponent), then being provided by Vendor by sending to Vendor a Termination Notice at least thirty (30) calendar days before the Termination Date specified therein. Solely for purposes of this Section: (i) “control” means the legal, beneficial, or equitable ownership, direct or indirect, of more than fifty percent (50%) of the aggregate of all voting or equity interests in Vendor; and (ii) a “change in control” shall be deemed to have occurred whenever, as a result of a single transaction or a series of related transactions, a Person (or a group of Persons acting in concert) that had not previously had control of Vendor obtains control of Vendor, in accordance with clause (i) of this Section, no Termination Fees shall be payable by the County to Vendor.

For the purposes of this termination right the Parties acknowledge that the currently contemplated Vendor transaction that will result in the separation of the Vendor into two companies shall not be considered a change of control. Notification of the contemplated transaction was filed with the U. S. Securities and Exchange Commission via a Form 8-K on August 30, 2012.

14.4 Termination for Default

14.4.1 County Right to Terminate

Notwithstanding anything to the contrary herein, the County shall have the right to terminate: (a) the Term of this Agreement with regard to the Services, or (b) any portion the Services (e.g., a Service Area or subcomponent), then being provided by Vendor by delivery of a Termination Notice to Vendor, if Vendor commits a Default under this Agreement. In the event of any such termination by the County for Default, Vendor shall nevertheless perform its Disentanglement obligations under this Agreement until they are fulfilled for up to one (1) year after the effective date of such termination. Any such termination shall not constitute the County’s exclusive remedy for such Default, nor shall such a termination cause the County be deemed to have waived any of its rights accruing hereunder prior to such Default. If the County terminates the Term or any portion of the Services as a result of a claimed Default by Vendor pursuant to the terms of this Section, and Vendor does not agree that a Default was committed, then Vendor shall have the right to avail itself of all remedies available to it at law or in equity. In the event that it is subsequently and finally determined by a court of competent jurisdiction, or otherwise mutually agreed by the Parties in writing, that the circumstances claimed by the County to constitute a Default by Vendor, and that formed the basis of a termination of the Term of this Agreement or any portion of the Services by the County pursuant to this Section, did not in fact constitute a Default, then the Term of this Agreement, or applicable portion of the Services, shall be deemed to have been terminated by the County for its convenience, as of the Termination Date specified by the County in the Termination Notice originally delivered with respect to such termination shall thereafter in all respects govern such termination, except that any additional Fees and Interest, if any, payable to Vendor as a result thereof (including applicable Termination Fees, if any) shall be deemed due and payable by the County no earlier than the date of such final determination or mutual written agreement. In the event the County exercises its rights as set forth in this Section, no Termination Fee shall be payable by the County to Vendor.

14.4.2 By Vendor

Vendor may terminate this Agreement solely if: (a) the County (or the Eligible Customer, solely with respect to that Eligible Customer's Subordinate Agreement with Vendor) has failed to make payments due and payable hereunder, (b) the aggregate total of such payments exceeds one third ($\frac{1}{3}$) of the maximum annual Fee, (c) such payment is not subject to a good faith dispute, (d) Vendor provides County with a minimum of ninety (90) calendar days written notice after the payment's due date of its intent to terminate; and (v) no less than sixty (60) additional calendar days pass with such payment not having been made.

14.4.3 Termination by the County for Force Majeure Event

In the event that Vendor experiences a Force Majeure Event that causes a delay or interruption in its performance of a significant or substantial portion of the Services that exceeds thirty (30) consecutive calendar days in duration, the County may terminate the delayed or interrupted Services or (in the event said Services represent a material portion of all of the Services) the County may terminate the Term of this Agreement, by sending, in either case, a Termination Notice to Vendor, specifying whether such termination is a partial or a total termination.

14.5 Termination by the County for Non-Appropriation

This Agreement is subject to and contingent upon applicable budgetary appropriations being made by the County of Orange Board of Supervisors for each Fiscal Year during the Term of this Agreement. If such appropriations are not made, this Agreement will be terminated without liability to the County. Vendor acknowledges that funding or portions of funding for this Agreement may also be contingent upon the receipt of funds from, and/or appropriation of funds by, the state of California to County. If such funding and/or appropriations are not forthcoming, or are otherwise limited, this Agreement shall terminate upon the earlier of (a) the end of the Fiscal Year for which appropriations are available or (b) the date during a Fiscal Year for which appropriations are no longer available, without liability. Vendor shall not be required to perform any Services including Disentanglement Services under Section 15, following termination of this Agreement for non-appropriation as described in this Section 14.5.

14.6 Termination for Incurred Liability

Notwithstanding anything to the contrary in Section 24, the County shall have the right to terminate: (a) the Term of this Agreement with regard to the Services, or (b) any portion the Services (e.g., a Service Area or subcomponent), then being provided by Vendor by delivery of a Termination Notice to Vendor at least ninety (90) calendar days before the Termination Date specified therein, if Vendor has incurred liability under this Agreement in an aggregate amount equal to or greater than seventy-five percent (75%) of then applicable limit on liability specified in this Agreement. If, during the Term, Vendor's total aggregate liability for all claims asserted against it by the County under this Agreement based on actual damage awards or settlement amounts equals or exceeds seventy-five (75%) of the amount specified in Section 16.1.2, then the County may provide to Vendor a written notice requesting that Vendor increase the amount specified in Section 16.1.2 by no less than Vendor's total aggregate liability for all claims asserted against it by the County under this Agreement as of the date of such written notice. If Vendor refuses to take such actions in writing within thirty (30) calendar days of Vendor's receipt of the County's written request therefor, the County may terminate this Agreement or any portion of the Services. In the event the County exercises its rights as set forth in this Section 14.6, no Termination Fee shall be payable by the County to Vendor.

14.7 Additional Termination Right of County

In the event Vendor, any of its Subcontractors, or any of each of their employees is or becomes debarred and declared ineligible, or voluntarily excluded from covered transactions with respect to all business with the United States Government, Vendor shall promptly, upon learning of such action, notify County of such action(s) and then the County, through the CIO, shall have the right, at its option, to direct Vendor to remove such Subcontractor and/or employee from performing Services under this Agreement. Such removal will occur without any cost or liability to the County and will not constitute an excuse for failure of Vendor to performance any Services as required herein. To the extent the debarment or exclusions applies to Vendor, County may, at its sole option, terminate the Term of this Agreement with regard to any or all of the Services without liability by delivering a Termination Notice. Any such request by the County shall be provided within one hundred twenty (120) calendar days from the receipt of the notice from the Vendor.

14.8 Effect of Ending of Term

The expiration or termination of the Term shall not constitute a termination of this Agreement, and all terms and conditions of this Agreement shall continue in force and effect until all other duties and obligations of the Parties (including Vendor's Disentanglement obligations under Section 15 (except in the case of Termination for non-appropriation as described in Section 14.5) and the County's obligations under this Agreement to pay the applicable Fees for Services rendered) have been fully performed, discharged, or excused. In the event the County elects to terminate all or any particular portion of the Services pursuant to the terms of this Section 14: (a) Vendor shall perform its Disentanglement obligations under Section 15, to the extent applicable to the portion of the Services being terminated; (b) Vendor shall be entitled to the unpaid Fees for Services actually rendered up to and including the applicable Termination Date except in the case of non-appropriation under Section 14.5, in accordance with Schedule 3; and (c) to the extent applicable to the portion of the Services being terminated, the County shall promptly pay any portions of previously earned Fees held back by the County in accordance with Schedule 3 and in connection with previously delivered partial or completed Deliverables or Critical Milestones. For avoidance of doubt, subsection (c) shall not be construed to include disputed Fees unless the resolution, in accordance with Section 24 of this Agreement, of the dispute regarding such Fees results in a determination that such Fees are in fact owed to Vendor.

14.9 Termination Fee

Following the applicable Service Commencement Date, in the event that the County terminates or ends the Term of this Agreement or any portion of the Services pursuant to this Section 14, the County shall pay Vendor the applicable termination fee ("**Termination Fee**") set forth in Schedule 3. Notwithstanding the foregoing, Termination Fees shall be defined for each Statement of Work under this Agreement. Furthermore, Termination Fees shall in no event include any lost profits, and Vendor shall use reasonable efforts to mitigate non-amortizable investment costs. County shall not be responsible for any additional Termination Fees and/or other actual non-amortized costs except to the extent that the Parties have mutually agreed to (a) adjust or change the scope of Services, (b) amend the scope of applicable Termination Fees and/or other actual non-amortized costs, and (c) execute an amendment to this Agreement or change order in accordance with the process outlined in this Agreement. Notwithstanding any provision to the contrary herein, Termination Fee(s) shall only be due and payable upon a Termination by County for Convenience under Section 14.2 and will not be payable upon the expiration of this Agreement's Initial Term under Section 14.1.1(a), the expiration of any renewal or extension Term under Sections 14.1.2 or 14.1.3 (Including any reduction of Services as part of an extension or renewal Term under Section 14.1.2), the County's Termination for Cause under Section 14.4.1, Termination by County for Change in

Control under Section 14.3, Termination by County for a Force Majeure Event under Section 14.4.3 (Termination for Non-Appropriation) under Section 14.5, or during or upon the expiration of Disentanglement, or pursuant to Section 14.6 (Termination for Incurred Liability). In no event will a termination fee apply to an IT Services Work Order that is terminated for convenience under Section 14.2 of this Agreement.

15. DISENTANGLEMENT

15.1 General Obligations

In connection with any expiration or termination of this Agreement, except in the case of Termination for non-appropriation, or with termination of Vendor's performance of the Services, or any portion thereof (e.g., a Service Area or subcomponent), then being provided hereunder, Vendor shall take all necessary and appropriate actions to accomplish a complete, timely, and seamless transition from Vendor to the County, or to any third party service providers designated by the County, of the Services being terminated or expiring, without interruption or adverse impact on the Services, the Service Levels, or any other services provided to the County by third parties (all such actions, collectively, a "**Disentanglement**"). Vendor shall promptly cooperate with the County and any designated service providers, and take all steps necessary and appropriate, or reasonably requested, to assist the County in effecting a complete and timely Disentanglement, including the provision to the County and any designated service providers of all information necessary to effect the transition, and assume and continue the provision, of any terminated Service sufficient for reasonably skilled personnel to understand and operate those Services, subject to any such service providers agreeing to protect the confidentiality of Vendor's Confidential Information. For up to twenty-four (24) months, Vendor shall provide for the prompt and orderly conclusion of all work related to the Services being terminated, as the County may direct, including completion or partial completion and documentation of all work in progress, and other appropriate measures to assure and effect an orderly transition to the County or its designated service providers. County shall continue to pay Fees for any Services that Vendor provides during Disentanglement; provided, however, at the rates charged to County the Contract Year prior to (or during) which the Agreement is terminated. Section 15.4.1, Vendor's obligation to provide such Disentanglement Services shall terminate on the earlier of (a) completion of Disentanglement satisfactory to the County, including performance by Vendor of all of its obligations pursuant to this Section 15, and (b) twenty-four (24) months (which said twenty-four (24) months shall include any extensions exercised by County pursuant to Section 15.4.1) after the Expiration Date or Termination Date of this Agreement or a portion of the Services, described in Section 15.2, (the "**Disentanglement Period**"). For clarity, during the Disentanglement Period, both Parties' obligations under this Agreement shall continue and remain in full force and effect until such time as all Disentanglement Services have been fully performed to the satisfaction of the County, or the expiration of the Disentanglement Period, whichever is earlier.

15.2 Disentanglement Process

In the event that the Term of this Agreement or any portion of the Services is terminated by either Party, the Disentanglement process shall begin on the date that any Termination Notice is delivered, or, if no Termination Notice has yet been delivered, the Disentanglement process shall begin on the Expiration Date of the Term or Termination Date (as applicable, the "**Disentanglement Commencement Date**") and, unless the Parties subsequently agree in writing to extend the Term, Vendor shall continue to provide Disentanglement Services, in accordance with this Section 15 or as the County reasonably requests, until the earlier of a Disentanglement satisfactory to the County has been completed, or a period that may last up to twenty-four (24) months after the Expiration Date or Termination Date of this Agreement or a portion of the Services. As soon as reasonably practicable, but no later than 30 calendar days, after the Disentanglement Commencement Date, Vendor and the County, and any third party service

providers, shall confer and negotiate in good faith to reach mutual agreement on and document a written plan (a “**Disentanglement Transition Plan**”) that: (a) allocates responsibilities for Disentanglement and transition of the Services among the Parties and, to the extent applicable, such third party service providers; and (b) sets forth in reasonable detail the respective services to be provided by each of the Parties and such third party service providers, including all Disentanglement Services to be performed by Vendor. Unless otherwise agreed by the Parties in writing, such Disentanglement Transition Plan shall not in any respect lessen or eliminate Vendor’s obligations under this Agreement to provide all Disentanglement Services reasonably requested by the County. Vendor shall update such Disentanglement Transition Plan from time to time, as appropriate and subject to the County’s reasonable approval, in order to address any impact of any unexpected changes in the Services or the observed Service Level performance, or the in hardware, Software, or other resources used to provide the Services, as such Disentanglement progresses. Vendor shall be required to perform its Disentanglement services on an expedited basis, as determined by the County in its reasonable sole discretion, if the County terminates the Term or any portion of the Services.

15.3 Preparation for Disentanglement

15.3.1 Initial Preparatory Tasks

- (a) No later than thirty (30) calendar days from the Disentanglement Commencement Date, Vendor shall develop and deliver to the County a detailed, accurate and comprehensive list (and location) of all dedicated Assets used by Vendor or any Subcontractor in connection with the performance of the portion of the Services that is subject to termination;
- (b) Vendor shall, within thirty (30) calendar days of County’s request, prepare and pack up any dedicated Assets located in Vendor or Subcontractor facilities that are associated with the portion of the Services being terminated, and that are selected by County for conveyance to County or its designee; and, County shall remove all such dedicated Assets for shipment to County or its designee;
- (c) Vendor shall, within thirty (30) calendar days of County’s request, prepare, pack up and deliver for shipment to the County or its designee, all Documentation relating to the portion of the Services being terminated.
- (d) Vendor shall, within thirty (30) calendar days of the Disentanglement Commencement Date, develop and deliver to County or its designee, a detailed, accurate, current and comprehensive list of all Vendor and Subcontractor personnel supporting the Services being terminated as of and following the Disentanglement Commencement Date, which list shall include accurate and current contact information for each such person; and
- (e) Vendor shall require such of its Vendor Personnel and personnel of its Subcontractors, as may be selected by the County, to attend any and all meetings scheduled by the County in connection with Disentanglement and relating to the transfer of the terminated Services back to the County or its designee.

15.3.2 Up-to-Date Documentation

On each anniversary of the Effective Date throughout the Term, or at any time upon the County’s request, Vendor shall provide to the County such Documentation and other information regarding the performance of Services, or the use, operation, support and maintenance of the Systems and all associated Software (including any applications developed as part of the Services), Assets, hardware,

networks and equipment, as is collectively sufficient to enable reasonably skilled personnel of the County, or reasonably skilled personnel of a third party service provider, to understand the provision of any terminated Services and the use, operation, support, and maintenance use of the Systems. Vendor shall also provide sufficient Documentation for all upgraded, refreshed, or replacement Software, Assets, hardware, and network components within a reasonable time following installation. To the extent that any such Documentation relates to Third Party Works, Vendor shall provide Documentation that is of a type generally created in the industry for such Software, Assets, hardware, or network components and allows a reasonably skilled personnel of a third party service provider to reasonably comprehend the proper use, operation, support, and maintenance of such Software, Assets, hardware, or network components.

15.3.3 Maintenance of Assets

Throughout the Term, Vendor shall continuously maintain all hardware, Software, Systems, networks, and network components and other Assets and technology used by Vendor and its Subcontractors in performing Services and operating, supporting, and maintaining the Systems (including dedicated leased Assets and dedicated licensed Assets) in good working order and condition, and in such locations and configurations as to be readily identifiable and capable of being transferred back to the County or its designees in accordance with the provisions of this Agreement. In addition, Vendor shall maintain insurance on all such Assets, in accordance with Section 23.

15.3.4 Advance Consents

Vendor shall procure and deliver to the County, no later than thirty (30) calendar days before the end of the Term or the end of Disentanglement, and at the County's expense, such third party authorizations and consents requested by the County that are necessary to permit the timely conveyance or assignment to the County (or its designee), during Disentanglement, of all third party licenses, contracts, and agreements between Vendor and any third parties who provide goods or services, including maintenance and support contracts, used by Vendor in the provision of Services (collectively, "**Essential Agreements**"), provided that, in the event that such third party authorizations or consents have not been obtained and cannot be obtained during Disentanglement, Vendor shall: (a) promptly, but in no case later than thirty (30) calendar days after Vendor having such knowledge, notify the County's Relationship Manager of which third party authorizations or consents it is unable to obtain; (b) use commercially reasonable efforts to identify reasonable, alternative sources of goods, services, or Software comparable to those being provided under each such Essential Agreement, at a comparable or lower price; and (c) consult with the County regarding such identified alternatives and, to the extent the County approves of such alternatives in writing, proceed to procure and implement such alternatives on behalf of the County, provided that the County shall have the option at all times to enter into the applicable licenses or other contracts in its own name.

15.3.5 Preparation for Successor to this Agreement

At any time or times during the Term, at the written request of the County, Vendor shall provide the County with any information that the County is entitled to receive under this Agreement that the County desires to use in preparing a request for proposal to solicit responses, or responding to proposals, for the purpose of entering into an agreement that would constitute the successor to this Agreement. Such requested information may include, among other things, current and projected transactional or other relevant volumes, resource utilization and performance statistics and trends, forms utilization, and such other information, statistics, and materials related to the provision of the Services or the use, operation, support, and maintenance of the Systems as the County shall reasonably deem necessary or appropriate.

15.3.6 All Necessary Cooperation and Actions

Vendor shall take such additional actions and perform such additional tasks as are necessary, appropriate, or reasonably requested by the County, whether during the Term or during Disentanglement, to ensure a timely and seamless Disentanglement, in accordance with this Section, including completely fulfilling all of Vendor's obligations under this Section to the reasonable satisfaction of the County.

15.4 Specific Disentanglement Obligations

During Disentanglement, as part of the Disentanglement Services, the Parties shall perform their respective obligations specifically identified below, with respect to the Services or, in the event of a termination of less than all of the Services, the portion of Services being terminated.

15.4.1 Extension of Services

The County may elect to delay the Expiration Date of any expiration or termination of all or a part of the Services by giving Vendor thirty (30) calendar days' advance written notice to such effect, which notice shall specify the new Expiration or Termination Date; provided that the County may not delay such Expiration or Termination Date, in the aggregate, more than one hundred and eighty (180) calendar days following the originally specified Expiration or Termination Date of such expiration or termination, unless otherwise agreed by Vendor.

15.4.2 License to Proprietary Technology

Except as otherwise provided herein, Vendor, upon Disentanglement and at no charge to the County, shall provide the County (or its designee) with a fully-paid, perpetual, royalty-free, worldwide license to use, copy, and modify all Vendor Works which are used to deliver the Services exclusively to the County that are needed in order to allow the County (or its designee) to continue to perform and receive the benefit of the Services and to use, operate, support, maintain, and receive the benefit of the Systems, as such Systems might exist, or such Services are being performed, at the time of the Expiration or Termination Date. For the avoidance of doubt, any Vendor Work or Vendor System that is utilized that the Vendor uses to provide services to multiple clients, which are identified in Attachment J (Shared Resource) is excluded from this provision. Vendor shall provide the County with a full and complete copy of each such Vendor Work that constitutes Software, in such forms and media as requested by the County, together with all object code, source code, and then-available Documentation thereto. Vendor shall also offer to the County the right to receive maintenance (including all enhancements and upgrades) and support with respect to all Vendor Works for which Vendor commercially offers such maintenance and support, for so long as the County requires it, at no charge for the first two (2) years following the applicable Expiration Date and, thereafter, at reasonable commercial rates and terms similar to those that Vendor is then offering to other major customers for services of a similar nature and scope, unless otherwise agreed to by the Parties in writing.

15.4.3 Data and Documentation

In addition to Vendor's obligations with regard to Documentation, Vendor shall deliver to the County or the County's designee, promptly upon the County's request, all Documentation and data related to the County or the performance of the Services, including all the County Data, then held by Vendor, and Vendor shall securely destroy, in accordance with the County's data and documentation destruction policies, all copies thereof not turned over to the County, all at no charge to the County.

15.4.4 No Interruptions or Adverse Impact

Vendor shall cooperate with the County and all of the County's other service providers to achieve a smooth transition throughout Disentanglement, with no interruption of Services, no adverse impact upon the provision of Services or upon the achievement of Service Levels, no adverse impact upon the County's governmental activities, Eligible Customers and End Users, no interruption of any services provided to the County by third parties, and no adverse impact upon the provision of such third party services or their quality.

15.4.5 Transfer of Assets

Effective as of the Expiration Date or Termination Date, but by no later than thirty (30) calendar days prior to the end of the Disentanglement Period so long as such purchase does not interfere with Vendor's Service obligations, County shall have the right to purchase all equipment and other Assets used and owned by Vendor exclusively in or for the provision of the Services, or the operation, support or maintenance of the System, and which are no longer subject to or encumbered by a lease or loan obligation, at the then-current book value for each such Asset. For all such purchased Assets, Vendor shall convey to the County, at no additional charge, all ownership, title and interest, and shall execute all documents necessary or reasonably requested by County to perfect County's ownership rights in such Assets. For Assets which may be subject to a lease or loan obligation, the County may assume or buyout any remaining lease term. Conveyance of purchased Assets, if any, (inclusive of assumed leases) shall take place during the Disentanglement Period. Notwithstanding the foregoing, Vendor shall promptly remove from the County's premises any Vendor Assets associated with the terminated Services that the County, or its designee, chooses not to purchase, assume the lease, or buyout. Refusal of the County to purchase any or all equipment or other assets used by Vendor and/or assume or buyout any remaining lease term shall not result in any County liability, cost, compensation or fees. Vendor shall not be responsible for moving or the cost of moving any of the above described equipment or Vendor Assets purchased by or conveyed to County or its designee by Vendor.

Vendor Assets, hardware and equipment not otherwise purchased by or conveyed to County or its designee as described above, that is not removed by Vendor for any reason by the Vendor's completion of Disentanglement, other than for a Force Majeure Event or a reason caused solely by County, County's designee, or County's third party providers, shall become the County's sole and exclusive property, are to be considered by Vendor and the County as abandoned by Vendor, and all of Vendor's rights, title, interest, and ownership of such Assets shall be assigned and transferred to the County effective immediately following Vendor's completion of Disentanglement, without obligation, fee, charge, or liability of any kind to the County and free of charge. Notwithstanding the foregoing, Vendor shall not be relieved of its obligation to remove from the County's premises any Vendor equipment or Assets not otherwise purchased by or conveyed to County or its designee.

15.4.6 Transfer of Leases, Licenses, and Contracts

Effective as of the Expiration or Termination Date, Vendor, at the County's expense, shall convey or assign to the County (or its designee) such leases, licenses, and other contracts as the County may, in its sole discretion, select from among those associated with the use of properties, equipment, Assets, Software, or other goods or services by Vendor or any other Person to facilitate or enable the performance of the Services or the use, operation, support, or maintenance of the Systems. Notwithstanding anything to the contrary in this Section or elsewhere in this Agreement, Vendor shall be responsible for the satisfaction and performance of all obligations (including, without limitation, all financial obligations) under any such leases, licenses, and other contracts that may be assigned or conveyed to the County (or its designee) pursuant to this Section with respect to periods prior to the date of any such conveyance or assignment.

15.4.7 Hiring of Employees

During Disentanglement, regardless of whether all or any portion of the Services are being terminated, Vendor shall cooperate with and assist (and shall use all commercially reasonable efforts to cause its Subcontractors to timely cooperate with and assist) with the County's (or its designee's) offering of employment to those Vendor and Subcontractor employees who are selected by the County, in its sole discretion, and whose then-current job functions or positions are directly related to the Services being terminated, and in effecting the transition of any such employees who are hired by the County (or its designee).

15.4.8 Payment for Disentanglement Services

The County shall pay for all Disentanglement Services if this Agreement is terminated as a result of a material breach by County, an unresolved Force Majeure Event, or County's exercise of its rights to terminate for convenience. Vendor shall pay for all Disentanglement Services if this Agreement is terminated as a result of a material breach by Vendor. Vendor shall provide an estimate to County of the number of full time equivalent (FTE) hours (and the applicable billing rate) required to perform the tasks comprising the Disentanglement as set forth in the Disentanglement Transition Plan. Charges and payment for Disentanglement Services to Vendor arising from a termination of the Agreement caused by County as described in this Section, shall be made consistent with the Fees and hourly rates of this Agreement as of the date of the Termination Notice or Termination Date, plus any other additional expenses Vendor may incur for the County at an actual cost basis plus seven percent (7%) mark-up, excluding any taxes and costs of shipping. Notwithstanding the foregoing, Vendor shall use commercially reasonable efforts to utilize its existing staff to perform all Disentanglement tasks without requiring additional FTEs and at no additional cost to County.

Vendor monthly "Management Services" Fees charged during the Disentanglement Period shall not exceed the monthly "Management Services" Fees for each Service Area referenced in Appendix 3.1 to Schedule 3 of this Agreement. Monthly Disentanglement "Management Services" Fees are a component of the monthly "Management Services" Fee for each Service Area and shall decrease with the reduction in the RU counts for a Service Area but shall never be lower than sixty percent 60% of the fixed monthly "Management Fee" for a Service Area prior to the Disentanglement Period in order for Vendor to maintain a minimum level of cross functional (e.g., contract management, project management, invoicing, etc.) Services. Notwithstanding any other provision of the Agreement, all of the above agreed to monthly "Management Services" Fees for all Service Areas, even if a Service Area has been terminated, shall be paid to Vendor during the Disentanglement Period until Vendor ceases to provide all Services.

15.4.8.1 Option for [REDACTED] and [REDACTED] Work Order Services

The County may, in its sole discretion, no later than eight (8) months prior to the Expiration Date, by providing prior written notice delivered to Vendor, direct Vendor to perform the Services in accordance with the terms and conditions set forth in Attachment U.

16. LIMITATION OF LIABILITY

16.1 Limitation of Liability and Disclaimers

16.1.1 Limitation on Amount of the County's Liability

THE AGGREGATE CUMULATIVE MONETARY LIABILITY OF COUNTY GLOBALLY (INCLUSIVE OF ITS AFFILIATES) FOR ALL CLAIMS ARISING UNDER OR RELATING TO THIS AGREEMENT, NOTWITHSTANDING THE FORM IN WHICH ANY SUCH ACTION IS BROUGHT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL BE LIMITED IN THE AGGREGATE TO THE TOTAL FEES PAID OR PAYABLE UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE FIRST CLAIM AROSE (IT BEING THE UNDERSTANDING OF THE PARTIES THAT IDENTIFYING THE "FIRST" CLAIM WILL ESTABLISH THE BEGINNING POINT FOR ANY SUCH PERIOD DESCRIBED HEREIN). IN NO EVENT WILL THE COUNTY OF ORANGE BE LIABLE IN ANY RESPECT FOR ANY DAMAGES CAUSED BY ANY ELIGIBLE CUSTOMER OTHER THAN THE COUNTY, ITS DEPARTMENTS AND AGENCIES.

16.1.2 Limitation on Amount of Vendor's Liability

THE AGGREGATE CUMULATIVE MONETARY LIABILITY OF VENDOR GLOBALLY (INCLUSIVE OF ITS AFFILIATES) FOR ALL CLAIMS ARISING UNDER OR RELATING TO THIS AGREEMENT, NOTWITHSTANDING THE FORM IN WHICH ANY SUCH ACTION IS BROUGHT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL BE LIMITED IN THE AGGREGATE TO THE TOTAL FEES PAID OR PAYABLE UNDER THIS AGREEMENT DURING THE EIGHTEEN (18) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE FIRST CLAIM AROSE (IT BEING THE UNDERSTANDING OF THE PARTIES THAT IDENTIFYING THE "FIRST" CLAIM WILL ESTABLISH THE BEGINNING POINT FOR ANY SUCH PERIOD DESCRIBED HEREIN).

16.1.3 Limitation on Types of Damages

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN SECTION 16.1, NEITHER PARTY SHALL BE LIABLE UNDER THIS AGREEMENT FOR LOST PROFITS, LOST REVENUES, OR LOST DATA, OR EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

16.1.4 Acknowledged Direct Damages

THE PARTIES ACKNOWLEDGE AND AGREE THAT THE FOLLOWING TYPES OF DAMAGES SHALL ALL BE CONSTRUED AS DIRECT DAMAGES AND NOT AS INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES:

(a) REASONABLE ADDITIONAL COSTS THAT THE COUNTY IS REQUIRED TO EXPEND DURING THE ONE HUNDRED EIGHTY (180) DAY PERIOD IMMEDIATELY FOLLOWING A MATERIAL DEFAULT TO PROVIDE REASONABLY COMPARABLE SERVICES ITSELF OR PROCURE REASONABLY COMPARABLE SERVICES FROM AN ALTERNATIVE SOURCE AS A RESULT OF SUCH DEFAULT BY VENDOR HEREUNDER (TO THE EXTENT IN EXCESS OF THE FEES THAT COUNTY WOULD HAVE PAID TO VENDOR PURSUANT TO THIS AGREEMENT);

(b) COST AND EXPENSES OF RESTORING ANY ALTERED OR LOST DATA OF THE COUNTY TO THE EXTENT THAT SUCH ALTERED OR LOST DATA IS CAUSED BY VENDOR'S MATERIAL DEFAULT OF THIS AGREEMENT.

16.1.5 Classification of Fee Reductions

FEE REDUCTIONS ASSESSED AGAINST VENDOR PURSUANT TO THIS AGREEMENT SHALL NOT BE A TYPE OF DAMAGE EXCLUDED UNDER SECTION 16.1.3 OR BE COUNTED TOWARD THE LIMITATIONS OF LIABILITY SET FORTH IN SECTION 16.1.2.

16.1.6 Exceptions for Limitations of Liability

THE LIMITATIONS CONTAINED IN THIS AGREEMENT UPON THE TYPES AND AMOUNTS OF VENDOR'S LIABILITY SHALL NOT APPLY TO: (a) CLAIMS SUBJECT TO (OR AMOUNTS PAYABLE BY VENDOR AND COUNTY PURSUANT TO EACH PARTY'S INDEMNIFICATION OBLIGATIONS; (b) CLAIMS WITH RESPECT TO COUNTY'S, VENDOR'S OR ITS SUBCONTRACTOR'S BREACH OF CONFIDENTIALITY; (c) CLAIMS FOR LOSSES ARISING OUT OF THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF VENDOR OR ITS SUBCONTRACTORS; AND (d) CLAIMS FOR DAMAGES FOR PHYSICAL BODILY INJURY (INCLUDING DEATH) AND DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY PROXIMATELY CAUSED BY THE NEGLIGENT OR TORTIOUS CONDUCT OF VENDOR OR ITS SUBCONTRACTORS.

16.2 Force Majeure Events

If a Force Majeure Event is the material contributing cause of a Party's failure to perform any of its obligations hereunder, such obligations, after notification by such Party to the other Party, shall be deemed suspended to the extent such obligations are affected by such Force Majeure Event, until the Force Majeure Event has ended and a reasonable period of time for overcoming the effects thereof has passed, except that if a Force Majeure Event results in Vendor being unable to perform during any period of time some or all of the Services in accordance with the terms hereof, the County: (a) shall not be required to pay for any such unperformed Services; (b) shall be entitled, without the payment of the Fees described in Section 14.2, to engage an alternate provider, on an interim basis, to perform the Services that Vendor is unable to perform as a result of the Force Majeure Event, until such time as Vendor is able again to perform the Services in accordance with the terms hereof, and shall be entitled during such interim period to reimbursement from Vendor (with such reimbursement not to cover any period to the extent in excess of ninety (90) calendar days) for the costs and expenses of such provision of Services to the extent that said costs and expenses exceed the amount that the County would have paid Vendor hereunder for such Services. Both Parties shall use commercially reasonable efforts to minimize delays and mitigate adverse circumstances that occur due to a Force Majeure Event. Notwithstanding the foregoing, a Force Majeure Event shall not relieve or excuse Vendor from its obligations hereunder: (a) in the event that such obligations are not directly affected by such Force Majeure Event; (b) in the event that Vendor's failure to perform its obligations could have been prevented by testing that could have reasonably foreseen such failure, reasonable work-around, other exercise of reasonable diligence or the use of technology common and prevalent in the industry; or (c) to the extent that the Force Majeure Event is caused by Vendor's or its Subcontractors' failure to perform their Disaster Recovery Plan obligations in accordance with this Agreement.

16.3 Step-In Rights

If Vendor commits a Default that has a significant impact on a material portion of the operations of the County and Vendor does not commence curing such Default within twenty-four (24) hours or is unable to cure such Default within the longer of the applicable cure period provided hereunder and five (5) calendar days, then the County may, in addition to its other remedies at law and in equity, obtain from a third party or provide itself services that will allow the County to conduct operations until Vendor has cured the Default or this Agreement is terminated in accordance with the terms of this Agreement. County shall use reasonable efforts to minimize costs in securing and for the services secured by County under this section. Vendor shall reimburse the County for all costs and expenses of obtaining or providing such services for up to ninety (90) calendar days and provided that the County shall continue to pay amounts due and owing to Vendor under the terms of this Agreement subject to the pricing methodology set forth in this Agreement, which shall be calculated upon the County's usage of such Services from the third party. If Vendor is not able to restore such Services within the longer of the applicable cure period provided hereunder and fifteen (15) calendar days, the County may terminate this Agreement without liability.

17. REPORTS

17.1 Reports

As part of the Services, Vendor shall furnish the County with reports as reasonably requested by the County, in writing, from time to time. Such reports shall address such issues as Vendor's performance of the Services, cost-management, Subcontractor relationships, Eligible Customer Subordinate Agreement Services use, user satisfaction, and human resources. All such reporting shall include allocations or breakdowns as necessary for the County's internal chargeback purposes, in accordance with such procedures and materials as may be furnished by the County to Vendor in writing from time to time. In addition, in the event that Vendor, at any time during the Term, fails to perform the Services in accordance with the Service Levels, Vendor shall promptly provide the County with such additional reports, in such form, and with such frequency, as the County shall reasonably request. Vendor shall furnish all reports to the County in an electronic form. Vendor shall promptly inform the County of any known and material deficiencies, omissions, or irregularities in the County's requirements or in Vendor's performance of the Services that may come to Vendor's Relationship Manager's attention. Vendor shall furnish the County with materials and applicable research and development information, such as published materials and industry studies conducted for or by Vendor, that come to the attention of Vendor's Relationship Manager and pertain to the Services, and that Vendor's Relationship Manager reasonably believes would assist the County in setting its IT-related policies or requirements. Vendor's Relationship Manager shall also advise the County of other relevant matters of a material nature, including those that have a cost associated with them but that reasonably might be helpful to the County in setting or revising such policies or requirements.

17.2 RESERVED

18. RECORDKEEPING AND AUDIT RIGHTS

18.1 Recordkeeping

18.1.1 General Obligations

Vendor shall at all times maintain true, complete, and accurate records and books of account with respect to all aspects of Vendor's performance and invoices under this Agreement utilizing generally accepted accounting principles ("GAAP"), consistently applied, and complying in all material

respects with all applicable federal, state, and local laws, regulations, and ordinances. The County, upon prior written notice, may examine and make extracts of information and copy parts thereof to the extent reasonably necessary for the County to verify the accuracy of Vendor's invoices or Vendor's performance under this Agreement, at any reasonable time during normal business hours. In the event that Vendor ceases to exist as a legal entity, such records and books pertaining to this Agreement shall be forwarded to the surviving entity in a merger or acquisition, or in the event of liquidation, to the County. Vendor shall retain for a period of five (5) years after the date of final payment for Services rendered hereunder (including any Disentanglement Services), or such longer period as may be required by applicable law or regulation, all records and information required to verify amounts invoiced under this Agreement and Vendor's and its Subcontractors' compliance with applicable law and regulation in its performance under this Agreement. The obligations and requirements of this Section shall apply to all Vendor Subcontractors.

18.1.2 Access and Remedy

The County, or the County's Auditors (provided that any external third party Auditors have executed an appropriate nondisclosure agreement), shall be granted access to the aforesaid records for the purpose of verifying the accuracy of Vendor's invoicing and contractual compliance, during normal business hours, upon reasonable notice to Vendor and in such a manner so as not to interfere with Vendor's operations and, in no event, more than once in any rolling twelve (12) month period. All such verifications, notwithstanding anything to the contrary elsewhere in this Agreement, shall not include access to proprietary or confidential information except to the extent necessary to confirm the accuracy of Vendor's invoices or the extent of Vendor's legal and contractual compliance, nor, in any event, information that would require Vendor to disclose its underlying actual internal costs to provide the Services, but excluding the actual fees charged and invoiced to County. Nevertheless, subject to such limitations, during such hours and with such advance notice, and subject to the limits set forth in Section 18.2 below regarding access to Vendor's cost data, Vendor shall grant the County and its representatives full and complete access to the relevant portion of Vendor's books, records, documents, data, or information, and, with the prior consent of Vendor (which will not be unreasonably withheld or delayed), access to relevant Vendor Personnel, as they relate to amounts invoiced, invoices submitted, or the extent of Vendor's compliance with this Agreement, or as such access to personnel, books, records, documents, data, and information may be required in order for the County to ascertain any facts relevant to determining the accuracy of Vendor's invoicing hereunder, including facts with regard to verification of Fees (and components and calculations thereof). In the event that any such verification reveals an overcharge (net of any undercharges) to the County with respect to the Fees, then: (a) Vendor shall promptly refund such overcharge or issue to the County a credit for such overcharge; (b) if such overcharge represents, as to any invoice, more than five percent (5%) of the amounts that the County should have been charged under such invoice, then Vendor shall promptly issue to the County a credit for, the cost of such audit; and (b) Vendor shall fully cooperate with appropriate County personnel, or the County's Auditors, in reviewing, evaluating, and, to the extent necessary, revising Vendor's internal controls, promptly implementing any recommended, material changes.

18.1.3 Controls, Policies, and Procedures

Vendor shall at all times maintain such controls, policies, and procedures as reasonably requested by the County or the County's Auditors. Vendor shall promptly address any reasonable audit-control issues or weaknesses identified during any County audit, at no cost to the County.

18.1.4 SSAE 18 Service Organization Reports ("SOC") Report

At Vendor's sole cost and expense, Vendor shall cooperate with County on service organization control audits. Vendor shall provide the County a copy of the then current (1) Statement on

Standards for Attestation Engagement 18 – System and Organization Controls 1 (“SOC 1”) Report, on the Service Organization’s Controls and (2) a Service and Organization Controls 2 (“SOC 2”), Type 2 Report for the disaster recovery services provided as part of the Services on an annual basis.

18.1.5 ISO Certifications

The Vendor shall maintain and, at the County’s request, provide evidence of certification of Vendor’s Service Desk for ISO 2000, Service Management Standard, and ISO 27000, Information Security Management System.

18.2 Financial Audits

Vendor shall, at the County’s request, allow the County’s Auditors to audit Vendor’s and its Subcontractors’ records to the extent necessary to verify any amounts payable by the County hereunder, including those records related to performance obtained with regard to measured Service Levels. Vendor shall provide the County’s Auditors with reasonable access to such information relating to this Agreement and Vendor’s business and its Subcontractors’ businesses as may be necessary to confirm the accuracy of Vendor’s invoices, documents, and other information supporting such invoices, and pricing-adjustment computations for any given year. The County’s Auditors shall perform such audits only after executing nondisclosure agreements reasonably satisfactory to Vendor and shall not be a competitor of Vendor. All such audits shall be conducted during business hours, with reasonable advance notice, in compliance with Vendor’s security requirements and, in no event, more than once in any twelve (12) month rolling period. Any such audit shall be conducted in a manner so as not to interfere with Vendor’s operations. Such audits shall include access to proprietary or confidential information of Vendor only to the extent necessary to comply with the provisions hereof. If any of the foregoing audits reveals that Vendor has overcharged the County during the period to which the audit relates, then Vendor shall promptly issue to the County a credit for such overcharge, and, if the amount of the overcharge (offset by any undercharges revealed by such audit) is more than five percent (5%) of Vendor’s charges to the County for such period, the reasonable cost of such audit shall be borne by Vendor. If any such audit reveals that Vendor has undercharged the County during the period to which the audit relates, then the County shall promptly pay such undercharges to Vendor.

18.3 Operational Audits

The County may engage such Auditors as it shall deem appropriate to conduct an audit of Vendor’s and its Subcontractors’ practices, the facilities used by Vendor or Vendor’s Subcontractors in order to verify compliance with the terms of this Agreement and, in no event, more than once in any rolling twelve (12) month period. Any such audit shall be conducted in a reasonable manner and after reasonable advance notice (except that no notice shall be required with respect to a security audit). For purposes of such audit, Vendor shall, and shall cause its Subcontractors to, grant the County and its representatives full and complete access, during normal business hours and upon reasonable notice, to the relevant portion of Vendor’s and its Subcontractors’ books, records, documents, data, and information, as they relate to this Agreement, and with the prior consent of Vendor (which will not be unreasonably withheld or delayed), access to relevant Vendor Personnel’s comptroller, access to relevant Vendor Personnel. Vendor shall, and shall cause its Subcontractors to, provide the County, or its authorized representatives, with such information and assistance as are reasonably requested in order to perform such audits, provided that the Parties shall endeavor to arrange such assistance in such a way that it does not interfere with the performance of Vendor’s duties and obligations hereunder. If any such audit reveals an inadequacy or insufficiency of Vendor’s performance, including performance in connection with any security obligations of Vendor as set forth in this Agreement, Vendor shall promptly develop and provide to the County a reasonable and detailed corrective action plan and promptly thereafter implement such plan in accordance

with its terms. In addition, the cost of such audit shall be borne by Vendor in the event that: (a) the County specifically identifies a particular deficiency with respect to Vendor's performance of any particular Service; (b) Vendor either denies or fails to take prompt actions to investigate and cure such identified deficiency; (c) an audit is initiated hereunder to investigate such deficiency; and (d) the audit confirms the deficiency with respect to Vendor's performance of such Service. Any of the County's external third party Auditors performing such an audit shall do so only after executing nondisclosure agreements reasonably satisfactory to Vendor. Vendor shall use commercially reasonable efforts to incorporate the substance of the foregoing provisions of this Section 18 regarding audit rights (substituting the name of the Subcontractor for that of Vendor) into any written agreement between Vendor and each Subcontractor. Nothing in this Section shall in any way limit the County's rights under Section 18.2.

18.4 Sarbanes-Oxley Compliance

Vendor acknowledges that: (a) County's management in the future may be required under the Sarbanes-Oxley ("SOX") Laws to, among other things, assess the effectiveness of its internal controls over financial reporting and state in its annual report whether such internal controls are effective; (b) County's independent auditor is now and/or in the future may be required to evaluate the process used by management to reach the assessment conclusions described in subsection (a) above to determine whether that process provides an appropriate basis for management's conclusions; and (c) because County has outsourced certain functions to Vendor as described in this Agreement, the controls used by Vendor (including, without limitation, controls that restrict unauthorized access to systems, data and programs) are relevant to County's evaluation of its internal controls. Having acknowledged the foregoing, Vendor agrees to cooperate with County and its independent auditor as necessary to facilitate County's ability to comply with its obligations under the SOX Laws. Vendor shall follow all Federal regulations for the maintenance of records to meet SOX and the Internal Revenue Service requirements.

19. CONFIDENTIALITY

19.1 Definition of Confidential Information

"**Confidential Information**" shall mean, with respect to a Party hereto, all information or material that: (A) County provides to Vendor or is developed by Vendor for County that contain descriptions of the County's operations, building layouts, system maps and configurations, security protocols, network diagrams or similar information that provides non-public information about the County; and, (B) is either (i) marked "Confidential," "Restricted," "Proprietary," or with some other, similar, marking; (ii) known by the Parties to be considered confidential or proprietary; or, (iii) from all the relevant circumstances should reasonably be assumed to be confidential or proprietary. For the avoidance of doubt, Confidential Information described in subpart (A) above shall remain County Confidential Information regardless of any marking; and to the extent it is developed by Vendor, if marked it shall be marked as "County Confidential Information," and any other marking by Vendor placed on such information shall have no force or effect under this Agreement. Subject to the terms of this Agreement, Confidential Information includes all Source Materials and Object Code, prices, trade secrets, mask works, databases, hardware, software, designs, techniques, programs, engine protocols, models, displays and manuals, and the selection, coordination and arrangement of the contents of such materials, and any unpublished information concerning research activities and plans, customers, marketing or sales plans, product development or time to market, sales forecasts or results of marketing efforts, pricing or pricing strategies, costs, operational techniques, strategic plans, County Data, County Personal Data and unpublished financial information, including information concerning revenues, profits and profit margins.

19.2 Exclusions

Except with respect to County Personal Data, Confidential Information will not include any information or material, or any element thereof, whether or not such information or material is Confidential Information for the purposes of this Agreement, to the extent any such information or material, or any element thereof:

- (A) has previously become or is generally known to the public, unless it has become generally known to the public through a breach of this Agreement or a confidentiality or non-disclosure agreement;
- (B) was already rightfully known to the Party receiving such information (the “**Receiving Party**”) prior to being disclosed by or obtained from the Party (or its agents or Affiliates) disclosing such information (the “**Disclosing Party**”) as evidenced by written records kept in the ordinary course of business of or by proof of actual use by the Receiving Party;
- (C) has been or is hereafter rightfully received by the Receiving Party from a third person (other than the Disclosing Party) without restriction or disclosure and without breach of a duty of confidentiality to the Disclosing Party; or,
- (D) has been independently developed by the Receiving Party without access to Confidential Information of the Disclosing Party.

It will be presumed that any Confidential Information in a Receiving Party’s possession is not within exceptions (A), (B), (C), or (D) above, and the burden will be upon the Receiving Party to prove otherwise by records and documentation.

19.3 Use

The Parties agree to hold each other’s Confidential Information in strict confidence during the Term of this Agreement and after any termination or expiration of this Agreement. Each Party recognizes the importance of the other’s Confidential Information and recognizes and agrees that the Confidential Information of the other Party is critical to such other Party’s business and that neither Party would enter into this Agreement without assurance that its Confidential Information and the value thereof will be protected as provided in this Section 19 and elsewhere in this Agreement. Accordingly, each Party agrees as follows: (A) the Receiving Party will hold any and all Confidential Information it obtains in strictest confidence and will use and permit use of Confidential Information solely for the purposes of this Agreement; (B) the Receiving Party may disclose or provide access to its responsible employees who have a need to know and may make copies of Confidential Information only to the extent reasonably necessary to carry out its obligations hereunder; and, (C) the Receiving Party will notify the Disclosing Party immediately of any unauthorized disclosure or use of the other Party’s Confidential Information, and will cooperate with the Disclosing Party to protect all proprietary rights in and ownership of its Confidential Information. Vendor shall require each of its agents and Subcontractors providing Services hereunder to execute a confidentiality agreement, in form and substance acceptable to County, under which such agents or Subcontractors agree to appropriately protect the County Confidential Information and to fulfill any other confidentiality obligations necessary to the performance of Vendor’s obligations hereunder. Vendor covenants that each of its employees performing Services shall be subject to the terms of an employment agreement that requires him or her to protect Vendor’s clients’ confidential information, including the County Confidential Information, and that offers no less degree of protection than that which is required hereunder.

19.4 Treatment of County Data

County Data is and shall remain the property of County and County shall retain exclusive rights and ownership of the County Data. Without limiting any other warranty or obligation specified in this Agreement, and in particular the confidentiality provisions of this Section 19, during the Term and thereafter in perpetuity, Vendor will not gather, store, log, archive, use, or otherwise retain any County Data in any manner and will not disclose, distribute, sell, share, rent, or otherwise transfer any County Data to any third party, except as expressly provided in this Agreement or as Vendor may be expressly be directed in advance in writing by County. Supplier represents, covenants, and warrants that Vendor will use County Data only in compliance with (A) this Agreement, (B) the County Policies, Procedures, and Guidelines, and (C) all applicable Laws.

19.5 Compelled Disclosures

- (A) To the extent required by applicable Law, including but not limited to the California Public Records Act (“CPRA”), or by lawful order or requirement of a court or governmental authority having competent jurisdiction over Vendor, Vendor may disclose Confidential Information, including County Data, in accordance with such Law or order or requirement, subject to the following conditions: (i) As soon as possible after becoming aware of such Law, order, or requirement and prior to disclosing Confidential Information, including County Data, pursuant thereto, Vendor will so notify the County in writing and, if possible, Vendor will provide the County notice not less than five (5) Business Days prior to the required disclosure; (ii) Vendor will use reasonable efforts not to release Confidential Information, including County Data, pending the outcome of any measures taken by the County to contest, otherwise oppose, or seek to limit such disclosure by Vendor and any subsequent disclosure or use of Confidential Information, including County Data, that may result from such disclosure; and, (iii) Vendor will cooperate with and provide assistance to the County regarding such measures. Notwithstanding any such compelled disclosure by Vendor, such compelled disclosure will not otherwise affect Vendor’s obligations hereunder with respect to Confidential Information, including County Data, so disclosed. The County’s disclosure of information or documents, including Confidential Information, pursuant to the CPRA, a court order, or other legal obligation, shall not subject the County, its elected and appointed officials, those special districts and agencies which County’s Board of Supervisors acts as the governing Board, County’s Affiliates, and as to each of the above, their respective officers, directors, employees, agents, successors, and assigns, to any liability, cost, fee, expense, or charge of any kind. To the extent the County withholds information or documents pursuant to a request by Vendor and in good faith pursuant to law, but such withholding results in a claim or liability against County, Vendor agrees to (i) indemnify, (ii) defend with counsel approved in writing by County, and (iii) hold County Indemnitees harmless from any claims, actions, proceedings, liability, damages, costs, and expenses, of any kind or nature arising out of, or in connection with such claim or liability against County. For the avoidance of doubt, Vendor understands and agrees that the County Board of Supervisors is specifically authorized under this Agreement and required by law to direct and control litigation and conduct actions as provided by Government Code Section 25203. Consequently, Supplier will pay for the defense using counsel selected by and reporting to County.
- (B) Vendor shall pay all amounts that a court awards or that County agrees to in settlement as to any such claim or liability against County, as well as any and all reasonable attorneys’ fees and costs of investigation arising from such claims or liability against County incurred by County or any other party indemnified under this Section 19.6 associated with such claims or liability against County and incurred prior to Vendor’s assumption of the defense against any claims or liability against County.

19.6 Return of Proprietary or Confidential Information

On the Disclosing Party's written request or upon expiration or termination of this Agreement for any reason, the Receiving Party will promptly:

(a) with respect to either Vendor or County, as the case may be, return or destroy, at the Disclosing Party's option, all originals and copies of all documents and materials it has received containing the Disclosing Party's Confidential Information; and,

(b) with respect to County, deliver or destroy, at County's option, all originals and copies of all summaries, records, descriptions, modifications, negatives, drawings, adoptions and other documents or materials, whether in writing or in machine-readable form, prepared by Vendor, prepared under Vendor's direction, or at Vendor's request from the documents and materials referred to in subparagraph (a), and provide a notarized written statement to County certifying that all documents and materials referred to in subparagraphs (a) and (b) have been delivered to County or destroyed, as requested by County.

19.7 Solicitation of County Customers

Vendor agrees that it will not use or sell to others lists containing information obtained in connection with this Agreement about any County customers or business partners. Nothing contained herein shall preclude Vendor from providing services to any County customers or business partners who independently contact Vendor, who are responding to a general solicitation of Vendor, or are contacted by Vendor based on information independently derived by Vendor.

19.8 Residual Knowledge

Provided that the Receiving Party does not infringe the patent rights, copyrights, trademarks, or service marks of the Disclosing Party or any third parties who have licensed or provided materials to the Disclosing Party, either Party may use the ideas, concepts, know-how, methodologies, processes, technologies, algorithms, or techniques relating to the Services (collectively, "**Residual Knowledge**") retained by an individual without reference, within thirty (30) calendar days after the use of such Residual Knowledge, to any writing, whether written or electronic, and which either Party, individually or jointly, develops, or discloses under this Agreement. Confidential Information that the Receiving Party's personnel deliberately commits to memory is not Residual Knowledge. This Section 19.8 shall not apply to County Personal Data or any County Data. Other than as set forth herein, nothing contained in this Section 19.8 given the Receiving Party the right to disclose, publish, or disseminate (A) the source of the Residual Knowledge, (B) the Disclosing Party's financial, statistical, or personnel data, or (C) the Disclosing Party's business plans or strategies.

19.9 Non-Exclusive Equitable Remedy

Each Party acknowledges and agrees that due to the unique nature of Confidential Information, including County Data, there is no adequate remedy at law for any breach of its obligations hereunder and that any such breach or threatened breach may result in irreparable harm to such Party and, therefore, that upon any such breach or any threat thereof, each Party will be entitled to seek and obtain appropriate equitable and injunctive relief from a court of competent jurisdiction without the necessity of proving actual loss, in addition to whatever remedies either of them might have at law or equity. Any breach of this Section 19 shall constitute a material breach of this Agreement.

20. LEGAL COMPLIANCE

20.1 General

Each Party shall at all times perform its obligations hereunder in compliance in all material respects with all applicable federal, state, and local laws and regulations of all applicable domestic jurisdictions, including, without limitation, any applicable requirements of any federal, state, and local authority regulating health, safety, employment, civil rights, the environment, Hazardous Materials, privacy, confidentiality, security, exportation, or telecommunication, and all applicable laws and regulations relating to the collection, dissemination, transfer, storage and use of data, specifically including, without limitation, the privacy and security of confidential, personal, sensitive or other protected data.

20.2 Regulatory Compliance

County is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320(d) through (d)(8) and as amended from time-to-time (“HIPAA”). Under this Agreement, the Vendor provides services to County and the Vendor receives, has access to, and/or creates Protected Health Information in order to provide those services. Vendor acknowledges and agrees that all patient records and Protected Health Information shall be subject to the confidentiality and disclosure provisions of HIPAA, HITECH Act, ARRA, and the regulations promulgated thereunder by the U.S. Department of Health and Human Services including the Standards for Privacy of Individually Identifiable Health Information and the Security Standards for Electronic Protected Health Information at 45 Code of Federal Regulations (“C.F.R.”), parts 142, 160, and 164, as the same may be amended from time-to-time, and any other applicable federal and state Laws (including California Civil Code Section 56.10) (collectively, the “**Privacy and Security Laws**”) and agrees to maintain the confidentiality of all such records and information in accordance with such laws. The Parties further agree that they shall abide by the provisions of Attachment R (Business Associate Agreement) hereto with respect to information subject to HIPAA. Should County amend Attachment R (Business Associate Agreement) as is necessary to comply with the requirements of the Privacy and Security Regulations (as such term is defined in the Business Associate Agreement), the Parties will amend Attachment R (Business Associate Agreement) to replace Attachment R (Business Associate Agreement) with the updated Business Associate Agreement.

Vendor will report any security incidents of which it becomes aware to County in accordance with Section 20.3.1(c).

20.3 Security of Electronic Protected Health Information

(a) Vendor will establish and maintain appropriate administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic Protected Health Information. Vendor will follow generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information ("the Security Rule", published at 45 CFR Parts 160 - 164).

(b) Vendor will ensure that any agent, including a subcontractor, to whom it provides electronic Protected Health Information agrees to implement reasonable and appropriate safeguards to protect that information.

(c) Vendor will report any security incident of which it becomes aware to County. For purposes of this Agreement, a “security incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations. This

does not include trivial incidents that occur on a daily basis, such as scans, “pings”, or unsuccessful attempts to penetrate computer networks or servers maintained by Vendor.

20.3.1 Amendment

The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the County to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub.L.No. 104-191.

20.4 Trans-border Data Flows

Vendor shall not transfer any County Data across a country border.

20.5 Vendor as a Data Processor

Vendor understands and acknowledges that, to the extent that performance of its obligations hereunder involves or necessitates the processing of personal data, Vendor shall comply promptly with instructions and directions received by Vendor from the County with respect to the processing of personal data.

20.6 Permits and Licenses

Except for approvals, permissions, permits, or licenses required by state or federal statute, ordinance, regulation, or other law to be obtained by the County (including those required, if any, to permit the County to enter into this Agreement), or as provided otherwise elsewhere in this Agreement, Vendor shall obtain and maintain, at its own expense, all approvals, permissions, permits, licenses, and other forms of documentation required in order for the Parties to comply with all existing state or federal statutes, ordinances, regulations, and other laws that are applicable to Vendor’s performance of Services hereunder. The County reserves the right to reasonably request and review all such applications, permits, and licenses prior to the commencement of performance of any Services hereunder, and Vendor shall promptly comply and cooperate with any such request. Notwithstanding the foregoing, the County shall be solely responsible for monitoring, and compliance with, the substantive laws, rules, and regulations applicable to its business.

20.7 Americans with Disabilities Act (“ADA”)

Vendor shall comply with Section 504 of the Rehabilitation Act of 1973 as amended; Title VI and VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act, 42 USC 12101; California Code of Regulations, Title 2, Title 22: California Government Code, Sections 11135, et seq; and other federal and state laws and executive orders prohibit discrimination. All programs, activities, employment opportunities, and services must be made available to all persons, including persons with disabilities.

20.8 Drug and Alcohol-Free Workplace

County, in recognition of individual rights to work in a safe, healthful, and productive workplace, has adopted a requirement for a drug and alcohol-free workplace. This policy provides that all County-employed service providers and their employees shall assist in meeting this requirement. As a material condition of this Agreement, the Vendor agrees and shall ensure that all Vendor Personnel, while at any County Location or while performing any Services: (A) shall not be in any way impaired because of being under the influence of alcohol or a drug; (B) shall not possess an open container of alcohol or consume

alcohol or possess or be under the influence of an illegal drug; and, (C) shall not sell, offer, or provide alcohol or a drug to another Person. Vendor shall inform all Vendor Personnel who are performing Services for the County of the County objective of a safe, healthful, and productive workplace and the prohibition of drug or alcohol use or impairment from same while performing such Services for the County, and that they are subject to random drug screenings by the County. Vendor shall provide evidence to County that Vendor Personnel have been informed of and agree to such random drug screenings. The County may terminate for default or material breach this Agreement and any other contract the Vendor has with the County, if the Vendor, or Vendor Personnel, are determined by the County not to be in compliance with the conditions listed in this Section 20.8.

- (A) In connection with maintaining a drug and alcohol-free workplace for County, Vendor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. Supplier shall:
- (i) Publish a statement notifying Vendor Personnel that unlawful manufacture, distribution, dispensation, possession, or use of controlled substances is prohibited and specifying actions to be taken against Vendor Personnel for violations, as required by Government Code Section 8355(a)(1).
 - (ii) Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform Vendor Personnel about all of the following:
 - (a) The dangers of drug abuse in the workplace;
 - (b) The organization's policy of maintaining a drug-free workplace;
 - (c) Any available counseling, rehabilitation, and employee assistance programs; and,
 - (d) Penalties that may be imposed upon Vendor Personnel for drug abuse violations.
 - (iii) Provide as required by Government Code Section 8355(a)(3) that all Vendor Personnel who provide Services under this Agreement:
 - (iv) Will receive a copy of the company's drug-free policy statement; and,
 - (v) Will agree to abide by the terms of the company's statement as a condition of employment under this Agreement.
- (B) Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both, and Vendor may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:
- (i) Vendor has made false certification, or
 - (ii) Vendor violates the certification by failing to carry out the requirements as noted above.

20.9 Incorporation of Certain Policies

This Agreement incorporates the following California Law Enforcement Telecommunications System ("CLETS") documents, attached hereto this Agreement as Attachment M: (A) California Law Enforcement Telecommunications System (CLETS) Policies, Procedures, Guidelines, and Statutes, Rev 11/99, and further revisions as necessary; and, (B) CLETS Computer Interface Rules and Requirements, Rev 09/95, and further revisions as necessary. Vendor shall comply with the applicable provisions of the CLETS documents, and shall ensure that all Persons having access to the CLETS system as defined by the CLETS documents shall have first obtained the required background investigation and clearance, as conducted and approved by the Orange County Sheriff ("Sheriff"). Supplier acknowledges and agrees that the operation, policy, planning, and training for the CLETS system shall be subject to the oversight and authority of the Sheriff. In cases of alleged violation of CLETS Policies, Procedures, and Guidelines, appropriate corrective actions, if any, will be coordinated with the Sheriff and County to ensure

appropriate disciplinary action is taken, as mutually agreed. Any amendments to the terms and conditions of this Agreement relating to CLETS system shall be coordinated with the Sheriff, and shall not be effective without the approval and signature of the Sheriff.

21. REPRESENTATIONS, WARRANTIES, AND COVENANTS

21.1 By Vendor

21.1.1 Preparation

Vendor represents that: (a) it has had sufficient access to, and opportunity to inspect, all material components, workings, capabilities, procedures, and capacities of the County's networks, equipment, hardware, and Software associated with the provision of the Services and Deliverables, and the operation, support, and maintenance of the Systems, and for full and complete analysis of the County's requirements in connection therewith (as specified in this Agreement); (b) it has performed sufficient due diligence investigations regarding the scope and substance of the Services, the Systems, and the Deliverables; (c) it has received sufficient answers to all questions that it has presented to the County regarding the scope and substance of the Services, the Systems, and the Deliverables; and (d) it is capable in all respects of providing the Services and Deliverables and achieving SLRs, and of operating, supporting, and maintaining the Systems, in accordance with this Agreement. Vendor hereby waives and releases any and all claims that it now has or hereafter may have against the County based upon any inaccuracy or incompleteness of the information it has received with regard to the scope and substance of the Services, the Systems, or the Deliverables. Further, Vendor covenants that it shall not seek any judicial rescission, cancellation, termination or reformation, of this Agreement or any provision hereof based upon any such inaccuracy or incompleteness of information except where such information was willfully withheld or intentionally misrepresented by the County.

21.1.2 Service Delivery

Vendor warrants that: (a) the Services shall be performed, and all Deliverables and other materials prepared and delivered, in a timely, professional, workman-like, diligent, efficient manner and in accordance with the highest recognized professional standards and practices of quality and integrity in the industry and with the performance standards and Specifications provided or required by this Agreement; and (b) Vendor Personnel (including Vendor's Relationship Manager and the Key Personnel), Vendor's Subcontractors, and any other Person or individual employed or engaged by Vendor in connection with this Agreement, shall be fully familiar with the technology and methodologies used to perform the Services and shall have the requisite ability, expertise, knowledge, and skill, as appropriate to the duties assigned, to perform the Services, provide the Deliverables, and develop, implement, support, and maintain the Systems, in such a manner and in accordance with such standards, practices, and Specifications.

21.1.3 Documentation

Vendor warrants that: (a) all Documentation and related materials concerning the Services, the Systems, or the Deliverables shall be complete and shall accurately describe such Services, Systems, or Deliverables so as to enable a reasonably capable IT or technology professional to readily understand and utilize all aspects thereof for all purposes for which they were intended and provided or produced and so as to allow the County, or its designees, to fully assume and continue the provision of the Services or the Deliverables, or the operation of the Systems; (b) the Deliverables shall not contain any undocumented material features of any kind whatsoever; and (c) all Documentation associated with enhancements to or updates of the Services, the Systems, or the Deliverables shall be of quality, detail, and usefulness equal to, or greater than, that of the initial Documentation for such Services, Systems, and Deliverables.

21.1.4 Deliverables

Vendor represents and warrants that the Deliverables and any other goods provided under this Agreement are and shall be free of liens or encumbrances. Vendor further warrants and covenants that the Deliverables containing a Software component shall comply with the Documentation and the Specifications in all material respects and will provide the functions and features and operate in the manner described in this Agreement or otherwise agreed by the Parties. Vendor shall, as quickly as possible, correct any failure of the Deliverables to so comply. Vendor further covenants that with respect to any Third Party Works, Vendor shall pass through to the County all benefits offered by the manufacturers and/or suppliers of such Third Party Works (including all warranties, indemnities, training, technical support and other consideration offered by such manufacturers and suppliers) except to the extent otherwise agreed by the County. If Vendor is unable to pass through any such benefit to the County, it shall notify the County in advance and shall exercise such benefits upon the County's behalf as requested by the County.

21.1.5 Proprietary Rights Infringement

To the extent permitted by the applicable third party agreement, Vendor warrants that it shall pass through to the County all covenants, representations, or undertakings of any third party with regard to infringement or misappropriation of Intellectual Property Rights by Software or equipment that is provided by Vendor through such third party and that is used in connection with this Agreement.

21.1.6 Authority and Approvals

Vendor represents that: (a) it is a corporation duly formed and in good standing under the laws of the State of Delaware; (b) it is qualified and registered to transact business in the County and all locations where the performance of its obligations hereunder would require such qualification; (c) it has all necessary rights, powers, and authority to enter into and perform under this Agreement; (d) the execution, delivery, and performance of this Agreement by Vendor have been duly authorized by all necessary corporate action; (e) the individual executing this Agreement on behalf of and for Vendor is an authorized agent of Vendor who has actual authority to bind Vendor to each and every Section and obligation of this Agreement and that all requirements of Vendor have been fulfilled to bestow such actual authority upon such individual; (f) following execution of this Agreement by Vendor (and assuming the due execution of this Agreement by County), this Agreement will constitute the legal and binding obligation of the Vendor enforceable in accordance with its terms; (g) the execution and performance of this Agreement by Vendor shall not violate any domestic law, statute, or regulation and shall not breach any agreement, covenant, court order, judgment, or decree to which Vendor is a party or by which it is bound; (h) it has, and covenants that it shall maintain in effect, all governmental licenses and permits necessary for it to provide the Services and Deliverables, and develop and implement the Systems, as contemplated by this Agreement; and (i) that Vendor owns or leases, and covenants that it shall own or lease, or have the right to use, free and clear of all liens and encumbrances, other than lessors' interests, or security interests of Vendor's lenders, appropriate right, title, or interest in and to the tangible property that Vendor intends to use or uses to provide the Services and Deliverables and to develop and implement the Systems in accordance herewith. Vendor covenants that it shall use all commercially reasonable efforts to obtain, and cooperate with and assist the County in obtaining, any clearances and approvals of the County's End Users that are necessary to permit the new Vendor Personnel to continue working on such End Users' projects on and after the applicable Service Commencement Date, except that the County shall be responsible for any costs associated with obtaining such clearances and approvals.

21.1.7 Pending Litigation

Vendor represents that, as of the Effective Date: (a) there is no outstanding or anticipated civil or criminal litigation, arbitrated matter, or other dispute, in any forum, to which Vendor or any of its Affiliates is a party that, if decided unfavorably to Vendor or its Affiliates, would reasonably be expected to have a material adverse effect on Vendor's ability to fulfill its obligations hereunder; and (b) Vendor knows of no basis that might give rise to any such litigation arbitration, or other dispute in the foreseeable future. Vendor warrants that it shall notify the County, as soon as reasonably possible after Vendor first learns of any litigation, arbitration, or other dispute that would reasonably be expected to have a material adverse effect on Vendor's ability to fulfill its obligations hereunder.

21.1.8 Compliance with Laws

Vendor warrants that, in performing the Services, preparing and providing the Deliverables, and developing, integrating, implementing, supporting, and maintaining the Systems, Vendor shall comply, and not prevent the County from complying, with all applicable laws, regulations, and policies, including: (a) all applicable immigration and labor laws and regulations; (b) all laws, regulations, and policies related to fair employment, employment of the handicapped and minorities and women, and the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or physical handicap; (c) all applicable data protection, nondisclosure, and privacy laws of any relevant jurisdiction; and (d) all applicable policies and procedures of the County.

21.1.9 Existing Violations

Vendor represents that, as of the Effective Date, it is not in violation or material non-compliance with any laws, ordinances, statutes, rules, regulations, or orders of governmental or regulatory authorities to which it is subject, and that it has not failed to obtain any licenses, permits, franchises, or other governmental authorizations necessary for the ownership of its properties or the conduct of its business, to the extent that any such violation, non-compliance or failure, either individually or in the aggregate, might adversely affect the performance of Vendor's obligations hereunder.

21.1.10 Misrepresentations

Vendor represents that it has not made, in any written or oral communication with or provided to the County (including the proposal, oral presentations or the negotiation of this Agreement), any material misrepresentations (whether through any untrue statement of a material fact or an omission of any material fact necessary to make such communication not misleading) regarding or concerning Vendor or any of Vendor's Subcontractors, or, individually or collectively: (a) their capabilities as competent, qualified, experienced providers of IT services; (b) their abilities to, or the manner in which they shall, perform the Services, provide the Deliverables, and develop, implement, operate, support, and maintain the Systems, in accordance with this Agreement; (c) their businesses, operations, or financial condition or any financial statements, reports, and other similar materials or information furnished to the County in connection with this transaction; or (d) any of the specific Services to be performed or Deliverables to be provided hereunder. In addition, Vendor shall require all of its Subcontractors to represent and certify to the same to the County.

21.1.11 Financial Condition

Vendor represents that it has, and warrants that it shall maintain, a financial condition commensurate with its obligations under this Agreement and sufficient to allow it to readily and successfully fulfill all such obligations, in accordance with this Agreement. Vendor further warrants that,

in the event the financial condition of Vendor changes during the Term in such a manner as to materially and adversely affect Vendor or jeopardize its ability to satisfy the warranty set forth in the immediately preceding sentence, Vendor shall notify the County as soon as reasonably practicable in writing, reasonably describing the nature and extent of such change.

21.1.12 No Restrictions by Federal Government

As a sub-grantee of federal funds under this Agreement, Vendor represents and warrants that:

(a) Vendor and Vendor's Affiliates and Subcontractors are not presently debarred, suspended proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency,

(b) Vendor and its Affiliates and Subcontractors have not within the five (5) year period preceding this Agreement, been convicted of or had a civil judgment rendered against any of them for the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction; violation of federal or state anti-trust statutes; or the commission of embezzlement, theft, forgery, bribery, falsification or d statements, or receiving stolen property,

(c) Except as disclosed to County, Vendor is not presently indicted or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses described in subsection (b) above; and

(d) Vendor and its Affiliates and Subcontractors have not within the five (5) year period preceding this Agreement; had one or more public transaction (federal, state, or local) terminated for cause or default.

21.1.13 Financial Statements

Vendor represents that it shall furnish, or cause to be furnished, to the County annually, as soon as available but in any event within one hundred and eighty (180) calendar days after the last day of each fiscal year, Vendor's Form 10-K as filed with the Securities and Exchange Commission (and for such Subcontractors and their respective subsidiaries as may be mutually agreed).

21.1.14 Conflict of Interest

Vendor represents, warrants, and covenants that:

(a) No Financial Interest

Neither Vendor nor any of its Affiliates, nor any employee of any of the foregoing, has, shall have, or shall acquire, any direct contractual, financial, business, or other interest, that would conflict in any material manner or degree with Vendor's performance of its duties and obligations under this Agreement, or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement; and Vendor shall promptly inform the County of any such interest that may be incompatible with the interests of the County;

(b) No Abuse of Authority for Financial Gain

Neither Vendor nor any of its Affiliates, nor any employee of any of the foregoing, has used or shall use the authority or position provided, or to be provided, under this Agreement to obtain financial gain for Vendor (except as set forth in this Agreement), or any such Affiliate or employee, or for a member of the immediate family of any such employee;

(c) No Use of Information for Financial Gain

Except as set forth in this Agreement, neither Vendor nor any of its Affiliates, nor any employee of any of the foregoing, has used or shall use any County Confidential Information acquired in the award or performance of the Agreement to obtain financial gain for Vendor, or any such Affiliate or employee, or for a member of the immediate family of any such employee;

(d) No Influence

Neither Vendor nor any of its Affiliates, nor any employee of any of the foregoing, has accepted or shall accept anything of value based on an understanding that the actions of Vendor, or those of any such Affiliate or employee, on behalf of the County would thereby be influenced; and Vendor shall not attempt to influence any County employee by the direct or indirect offer of anything of value, per the County's gift ban ordinance;

(e) No Payment Tied to Award

Neither Vendor nor any of its Affiliates or Subcontractors, nor any employee of any of the foregoing, has paid or agreed to pay any Person, other than bona fide employees working solely for Vendor or any such Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, that is contingent upon or would result from the award or execution of this Agreement;

(f) Independent Prices

The prices and other materials presented in the proposal were arrived at independently, without (for the purpose of restricting competition) consultation, communication, agreement, or otherwise conspiring with any other Person who submitted a proposal; the prices quoted were not knowingly disclosed by Vendor to any other proposer; and no attempt was made by Vendor to induce any other Person to submit or not to submit a proposal for the purpose of restricting competition; and

(g) Subcontractors

Vendor shall require each Subcontractor to certify to Vendor as to the matters in Subsections 21.1.14 with respect to itself, its employees and their immediate family members, as applicable.

21.1.15 Covenant Against Contingent Fees

Vendor warrants that no Person or selling agency has been employed, engaged, or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Vendor for the purpose of securing business. Any breach or violation of the foregoing warranty shall constitute an incurable and material breach of this Agreement by Vendor. Further, in such event, the County may, in the County's sole discretion, deduct from any Fees or other amounts due or payable to Vendor hereunder, or otherwise recover from Vendor, the full amount of such commission, percentage, brokerage, or contingent fee that such Person received from Vendor.

21.1.16 Confidentiality Agreements

Vendor represents that, as of the Effective Date, Vendor is not aware of an instance, during the ten (10) year period prior to the Effective Date hereof, where the Vendor has materially breached the terms of any confidentiality agreement entered into with any client prior to such time.

Vendor covenants that each of its employees performing Services shall be subject to the terms of an employment confidentiality agreement that requires him or her to protect Vendor's clients' confidential information, including the County Confidential Information, and that offers no less degree of protection than that which is required hereunder.

21.1.17 Maintenance

Vendor represents, warrants and covenants that it shall maintain all Machines and Software so that they operate in accordance their manufacturer specifications, including: (a) maintaining Machines and Software in good operating condition; (b) undertaking repairs and preventative maintenance on Machines in accordance with the applicable manufacturer's recommendations; and (c) performing Software maintenance and configuration in accordance with the applicable Software documentation and recommendations.

21.1.18 Additional Prohibitions

Vendor certifies that it shall not, and will not knowingly, after reasonable inquiry, subcontract with, any of the following:

- (a) Persons employed by the County or by any public agency for which the Board of Supervisors of the County of Orange is the governing body;
- (b) Profit-making or businesses in which employees described in sub-section (a) serve as officers, principles, or major shareholders
- (c) Persons who, within the immediately-preceding twelve (12) months came within the provisions of paragraphs (a) or (b) and who (i) were employed in positions of substantial responsibility in the area of service to be performed under this Agreement, or (ii) participated in my way in developing this Agreement or its service specifications; and
- (d) Profit-making or businesses in which the former employees described in paragraph (c) serve as officers, principals, partners, or major shareholders.

21.1.19 Political Activities Prohibited

None of the funds, provided directly or indirectly, under this Agreement shall be used for any political activities or to further the election or defeat of any candidate for public office. Neither this Agreement nor any funds provided there under shall be utilized in support of any partisan political activities, or activities for or against the election of a candidate for an elected office.

21.1.20 Lobbying

Vendor agrees to comply with the lobbying laws and policies applicable to the County and to assure that its officers and employees comply before any appearance before the County's Board of Supervisors. None of the funds provided under this Agreement shall be used for publicity or propaganda

purposes designed to support or defeat any legislation pending before state or federal legislatures or the Board of Supervisors of the County.

21.1.21 Religious Activity Prohibited

There shall be no religious worship, instructions or proselytization as part of or in connection with the performance of this Agreement.

21.1.22 Drug and Alcohol-Free Workplace

The County, in recognition of individual rights to work in a safe, healthful and productive work place, has adopted a requirement for a drug and alcohol-free work place.

21.1.23 Governmental Immunity

Notwithstanding any provisions to the contrary contained in this Agreement, it is agreed and understood that the County shall not be construed to have waived any rights or defenses of governmental immunity that it may have with respect to all matters arising out of this Agreement

21.1.24 Subordinate Agreements with Eligible Customers

If and to the extent Vendor enters into Subordinate Agreement(s) with any Eligible Customer for the provision of Services consistent with the terms of this Agreement, as amended by the applicable Subordinate Agreement(s), Vendor agrees to offer Services to such Eligible Customers. Neither County nor such Eligible Customers shall have any liability for the obligations of the other (including, without limitation, any liability for any payment obligations) and the Vendor agrees not to sue or otherwise make a claim against County or hold County liable for a breach by such Eligible Customers of any agreement between Vendor and any such Eligible Customers, but rather to proceed directly and such Eligible Customers. Notwithstanding anything to the contrary contained in this Agreement, County may disclose Vendor Confidential Information relating hereto to such Eligible Customers provided such Governmental Entities agree to abide by restrictions on the use of Vendor Confidential Information similar to those in Section 12.2 of this Agreement.

21.1.25 Efficiency

Vendor represents, warrants and covenants that it shall use commercially reasonable efforts to provide the Services in accordance with this Agreement and the Service Levels.

21.2 By County

21.2.1 Authority and Approvals

As of the Effective Date, County represents that: (a) it is a political subdivision of the State of California duly organized and existing under the Constitution and laws of the State of California; (b) it has all requisite rights, powers, and authority to enter into and perform its obligations under this Agreement; (c) the execution, delivery, and performance of this Agreement by County have been duly authorized by all necessary actions of the County Board of Supervisors; (d) the individual executing this Agreement on behalf of County is has been duly authorized to bind County to each and every Section and obligation of County under this Agreement; (e) upon the Effective Date of this Agreement (and assuming the due execution of this Agreement by Vendor), this Agreement constitutes the legal and binding obligation of the County enforceable in accordance with its terms; (f) the execution and performance of this Agreement by

County does not violate any California law, statute, or regulation, breach any agreement, covenant, California court order, judgment, or decree to which County is a party or with County's actual knowledge, by which it is bound. County's representations made in this Section 21.2.1 are limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws or equitable principles relating to or limiting creditors' rights generally and by the application of equitable principles if equitable remedies are sought and by the limitations on legal remedies imposed on actions against public entities in the State of California.

21.3 Warranty Disclaimer

Except as otherwise expressly stated in this Agreement, the neither Party makes any representation or warranty, express or implied, with respect to: (a) the Services or any component or portion thereof; (b) the skills, capabilities, or medical or other condition of any of the personnel; or (c) the hardware, Software, equipment, networks, and other IT-related Assets or materials made available or conveyed by the County to Vendor or Vendor to the County under this Agreement, all of which Assets and materials are made available or conveyed to the receiving Party "AS IS, WHERE IS," without warranties of any kind with respect to the condition, capabilities, or other attributes thereof.

22. INDEMNIFICATION

22.1 By the Parties

22.1.1 Infringement

Subject to the provisions of Section 22.4, each Party shall indemnify, defend, and hold the other Party harmless from and against any and all Losses related to claims or demands brought by any third party against any of them for any actual or alleged infringement or misappropriation of any Intellectual Property Right to the extent (a) based upon technology used by the indemnifying Party (and not owned or provided by the indemnified Party or its agents) in providing the Services or the Deliverables or developing and implementing the Systems, or (b) arising from the indemnified Party's use of the Services, Deliverables and/or the Systems consistent with this Agreement (each such claim or demand, an "**Infringement Claim**"). In the event of an Infringement Claim, the indemnifying Party may, in its reasonable discretion, either procure a license to enable the indemnified Party to continue to use or receive the benefit of such technology, or develop or obtain a non-infringing substitute reasonably acceptable to the indemnified Party. However, if neither of the foregoing is commercially reasonable, the indemnifying Party may cease providing the affected Services or instruct the indemnified Party to cease using the affected Deliverable, subject to the Disentanglement obligations set forth in Section 15 and in the case of Services, the Fees paid by the County shall be equitably reduced, and in the case of Deliverables, Vendor shall refund pro-rated amount (in cash or by means of a credit) of the Fees paid for the Deliverable. Notwithstanding anything to the contrary elsewhere in this Agreement, neither Party shall have an obligation to indemnify, defend, or hold the other Party harmless regarding any claim or action to the extent that it is based upon: (i) a modification of a program or machine by any third party (excluding Vendor's Subcontractors) that was not specifically approved by the indemnifying Party; (ii) the indemnified Party's combination, operation, or use of the indemnifying Party's technology with apparatus, data, or programs not furnished or approved by the indemnifying Party; (iii) the use by the indemnified Party of any Software or other technology provided by the indemnifying Party or any third party (including the Vendor Software and the Third Party Software) other than in accordance with the applicable licenses; or (iv) the indemnified Party's specifications (to the extent such infringement claim does not arise from any method or manner chosen by the indemnified Party to implement such specifications) and the indemnifying Party's specified method or manner for implementing such specifications (to the extent that indemnifying Party is not aware of any alternative method or manner for implementing such specifications that would not result in such infringement claim).

22.1.2 Employment Claims

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the County Indemnitees harmless from and against any and all Losses related to claims or demands by any of Vendor's or its Subcontractors' employees or former employees (including any of the personnel that are hired by Vendor or its Subcontractors) to the extent based upon or resulting from any act or omission of Vendor or its Subcontractors on or after the date such individual accepts employment with and is employed by Vendor or its Subcontractors, or in connection with such individual's termination of employment by, or other separation from, Vendor or its Subcontractors, including any allegation that such employee was wrongfully terminated by Vendor or its Subcontractors or was denied any Vendor or Subcontractor-provided severance or termination payment upon leaving the employ of Vendor or its Subcontractors, or any allegation that Vendor or any of its Subcontractors violated any federal, state or local laws or regulations for the protection of an individual or of individual members of a protected class or category of persons.

22.1.3 Services

Without limiting Vendor's obligations with respect to insurance as provided in Section 23 hereof, and subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the County Indemnitees harmless from and against any and all Losses related to claims or demands by any third party against any of them to the extent based upon or arising out of: (a) an alleged act or omission by Vendor with respect to the obligations to provide the Services hereunder (b) breach by Vendor of any agreement with a third party (including employment agreements or subcontracts and any other agreement for the provision of third party services); (c) any action brought by any Vendor Person or Subcontractor seeking to be treated as a County employee or claiming entitlement to any the County employee benefits other than with regard to periods during which they were actually employed by the County or a predecessor contractor to Vendor performing services on behalf of the County; or (d) theft, fraud, or misappropriation of tangible or intangible personal property by Vendor or any Subcontractor, or by the officers, directors, Affiliates, employees, agents, representatives, or subcontractors of any of the foregoing.

22.1.4 Misinformation

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the County Indemnitees harmless from and against any and all Losses related to claims or demands by any third party against any of them to the extent arising out of, or resulting from, the negligent or willful dissemination by Vendor or Vendor's Subcontractors (or by any personnel assigned by Vendor or Vendor's Subcontractors to perform any of Vendor's obligations under this Agreement) of false or incomplete information, or information that the County expressly directed Vendor not to disseminate, or information that Vendor reasonably should have known not to disseminate, or resulting from Vendor's or Vendor's Subcontractor's negligent or willful failure to disseminate information that Vendor is obligated to provide to the County's End Users pursuant to this Agreement, whether through any help-desk facility or any other Services in which Vendor has direct contact with any such third parties.

22.1.5 Injury or Property Damage

Without limiting Vendor's obligations with respect to insurance as provided in Section 23 hereof, and subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the County Indemnitees harmless from and against any and all Losses related to claims or demands by any third party against any of them for or alleging bodily injury, including death, or damage to tangible personal or real property, to the extent that such injury or damage arises out of, or results from, the negligence, willful misconduct, or violations of law by Vendor, any of Vendor's employees or agents, or Vendor's Subcontractors and their employees and agents.

22.1.6 Hazardous Materials

Subject to the provisions of Section 22.4, the indemnifying Party shall indemnify, defend, and hold the indemnified Party harmless from and against any and all Losses related to claims or demands by any third party against any of them to the extent based upon or resulting from: (a) the indemnifying Party's failure to comply with applicable Environmental Laws; or (b) the presence of any Hazardous Material upon, above, or beneath the indemnifying Party's facilities or locations from which Services are provided, except to the extent that such Hazardous Material was present at the time that indemnifying Party took over the use, occupation, and operation of such location or facility from the indemnified Party and such Hazardous Materials was disclosed by the indemnified Party to the indemnifying Party, if applicable, or if such Hazardous Material was released into the environment by the indemnified Party.

22.1.7 County Data or Proprietary Information

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the County Indemnitees harmless from and against any and all Losses related to claims or demands brought by any third party against any of them arising from Vendor's breach of its obligations with respect to County Data and County Confidential Information, and shall pay County's costs to recreate any County Data that is lost, destroyed or corrupted as a result of Vendor's acts or omissions.

22.1.8 Disposal of Refreshed Assets

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the County Indemnitees harmless from and against any and all Losses related to claims or demands by any third party that Vendor disposed of any of the refreshed equipment in violation of the terms of this Agreement or of any applicable federal, state, or local environmental law, regulation, or ordinance, or County's eWaste policy.

22.1.9 Affiliate, Subcontractor, and Assignee Claims

Subject to the provisions of Section 22.4, Vendor shall indemnify, defend, and hold the County Indemnitees harmless from and against any and all Losses related to any claim initiated by a Vendor Affiliate or Subcontractor or other entity asserting rights under this Agreement.

22.1.10 Transfer of Leases, Licenses and Contracts

Vendor shall indemnify, defend and hold the County Indemnitees harmless from and against, and reimburse the County for any and all Losses due to claims by third parties resulting from (a) any failure of Vendor to perform its obligations with respect to periods on or after the date of assignment or conveyance under leases, licenses and contracts assigned or conveyed to Vendor pursuant to Section 2, and (b) any failure of Vendor to perform its obligations with respect to periods prior to the date of assignment or conveyance under leases, licenses and contracts assigned or conveyed to the County pursuant to Section 15.4.6.

County shall indemnify, defend and hold the Vendor harmless from and against, and reimburse the Vendor for any and all Losses due to claims by third parties resulting from (i) any failure of County to perform its obligations with respect to periods before the date of assignment under leases, licenses and contracts assigned to Vendor pursuant to Section 3.2.1, and (ii) any failure of County to perform its obligations with respect to periods after the date of assignment under leases, licenses and contracts assigned to the County pursuant to Section 15.4.6.

22.1.11 Encumbrances

Vendor shall indemnify, defend, and hold the County Indemnitees harmless from and against any and all Losses incurred or sustained by any of them due to claims by third parties to the extent caused by, or resulting from, (a) any failure of the Deliverables or other goods to be provided under this Agreement to be free of liens or encumbrances or (b) Vendors', or its Affiliates' or Subcontractors', faulty performance of work, negligence, willful misconduct, or unlawful acts, or non-compliance with any applicable federal, state, or local laws, codes, regulations, rules, ordinances, orders, or statutes, including the Occupational Safety and Health Act.

22.2 Subrogation

If Vendor shall be obligated to indemnify a County Indemnitee pursuant to this Section 22, Vendor shall, upon payment of such indemnity in full, be subrogated to all rights of the County Indemnitee with respect to the claims and defenses to which such indemnification relates.

22.3 Setoff

Upon a final adjudicated determination of liability or the settlement of a claim, the Vendor shall pay the client such liability as established in the determination of liability or settlement within sixty (60) calendar days and if the Vendor does not make such payment the County may set off against, and deduct from, any and all amounts otherwise payable to Vendor pursuant to any of the provisions of this Agreement, any and all amounts owed by Vendor to any of the County Indemnitees under this Section.

22.4 Procedures

22.4.1 Notice of Claim

If any legal action governed by this Section 22 is commenced against an Indemnitee, (a) the Indemnitee shall provide the indemnifying Party prompt, written, and reasonable notice of such legal action subject to indemnification describing in reasonable detail the nature of the claim, and (b) the Indemnitee shall provide its reasonable cooperation with the indemnifying Party in defense of the claim, including providing information and assistance in defending the claim. Failure to give prompt notice shall not, however, reduce the indemnifying Party's obligations under this Section 22, except to the extent it is prejudiced thereby.

22.4.2 Indemnification Process

The indemnifying Party shall defend the Indemnitee against such third party claim. The indemnifying Party shall have the right to defend such third party claim with counsel selected by the indemnifying Party and reasonably satisfactory to the Indemnitee, in all appropriate proceedings, to a final conclusion or settlement at the discretion of the indemnifying Party in accordance with this Section. The indemnifying Party shall have full control of such defense and proceedings, including any compromise or settlement thereof; *provided, however*, that the indemnifying Party shall not enter into any settlement agreement without the written consent of the Indemnitee (which consent shall not be unreasonably withheld, conditioned or delayed). Notwithstanding the foregoing, such consent shall not be required if (a) the settlement agreement contains a complete and unconditional general release by the third party asserting the claim to all Indemnitees affected by the claim without financial obligation of any type or kind again such Indemnitees and (b) the settlement agreement does not contain any sanction or restriction upon the conduct or operation of any business by the Indemnitees. The indemnified Party may participate in, but not control,

any defense or settlement of any third party claim controlled by the Indemnifying Party pursuant to this Section, and the Indemnitee shall bear its own costs and expenses with respect to such participation.

23. INSURANCE AND INDEMNITY

23.1 Required Insurance Coverage

Prior to the provision of Services under this Agreement, the Vendor agrees to purchase all required insurance set forth below at Vendor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Agreement have been complied with. Vendor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Agreement.

The County reserves the right to examine, at any time during regular business hours and with reasonable notice to Vendor, the insurance policies and self-insurance programs applicable to this Agreement.

All self-insured retentions ("SIRs") shall be clearly stated on the Certificate of Insurance. Any self-insured retention ("SIR") in an amount in excess of Five Million Dollars (\$5,000,000) shall specifically be approved in writing by the County's Risk Manager, or designee, upon review of Vendor's current audited financial report. If Vendor's SIR is approved in writing, Vendor, in addition to, and without limitation of, any other indemnity provisions in this Agreement, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Vendor's, its agents, employee's or sub-Vendor's performance of this Contract, Vendor shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) Vendor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Vendor's SIR provision shall be interpreted as though the Vendor was an insurer and the County was the insured.

Vendor shall be responsible for ensuring that all of Vendor's agents, consultants, suppliers, and subcontractors are, in the sole discretion of Vendor, sufficiently insured against claims arising out of or relating to their performance for Vendor related to this Agreement. Such proof of insurance must be maintained by Vendor through the entirety of this Agreement for inspection by County representative(s) at any reasonable time.

Any self-insurance, self-retained layer, deductibles, and exclusions in coverage in the insurance policies required by this Section 23: (i) shall be assumed by, for the account of, and at the sole risk of, Vendor; and (ii) as well as any changes in any of the foregoing, must be declared to the County. In no event shall Vendor's liability be limited to the extent of the minimum limits of insurance required below.

If the Vendor fails to maintain insurance acceptable to the County for the full term of this Agreement, the County may terminate this Contract.

23.2 Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Vendor shall provide the minimum limits and coverage as set forth below:

23.3 Coverage Minimum Limits

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability (Including coverage for owned, non-owned and hired vehicles)	\$1,000,000 per occurrence
Worker's Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per occurrence
Cyber Liability (Vendor shall specify on the applicable certificate of insurance the limit for Network Security and Privacy Liability coverage and that it is included as part of the Cyber Liability coverage)	\$20,000,000 per claims-made
Technology Errors & Omissions	\$20,000,000 per claims-made \$20,000,000 aggregate
Employee Dishonesty	\$1,000,000
Property in Transit (Property of Others)	Replacement Cost

23.4 Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

23.5 Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***“County of Orange its elected and appointed officials, officers, agents and employees”*** as Additional Insureds, or provide blanket coverage, which will state ***“AS REQUIRED BY WRITTEN CONTRACT”***.
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Vendor’s insurance is primary and any insurance or self-insurance maintained by the County shall be excess and non-contributing.

The Cyber Liability policy shall contain the following endorsements which are specific to Network Security and Privacy and shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement naming the ***County of Orange, its elected and appointed officials, officers, agents and employees*** as Additional Insureds for its vicarious liability.
- 2) A primary and non-contributing endorsement evidencing that the Vendor’s insurance is primary and any insurance or self-insurance maintained by the County shall be excess and non-contributing.

The Workers’ Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the ***“County of Orange, its elected and appointed officials, officers, agents and employees”*** or provide blanket coverage, which will state ***“AS REQUIRED BY WRITTEN CONTRACT”***.

All insurance policies required by this Agreement shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

The County shall be the loss payee on the Employee Dishonesty and Property in Transit coverages. A Loss Payee endorsement evidencing that the County is a Loss Payee shall accompany the Certificate of Insurance.

If Vendor’s Technology Errors & Omissions and/or Cyber Liability are “Claims-Made” policies, Vendor shall agree to maintain coverage for four (4) years following the completion of the Agreement (including any Disentanglement Services).

The Commercial General Liability policy shall contain a severability of interests clause also known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the County address listed in Section 27.4.

County expressly retains the right to require Vendor to increase or decrease insurance of any of the above insurance types throughout the term of this Agreement, which shall be mutually agreed to by the Parties. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County. Notwithstanding the foregoing and any other provision of this

Agreement, County shall not require an increase to Supplier's insurance limits that would exceed Supplier's then existing policy limits, unless such increase is mutually agreed to by the Parties.

County shall notify Vendor in writing of changes in the insurance requirements, which such changes shall be mutually agreed upon. If Vendor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Agreement may be in breach without further notice to Vendor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Vendor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

23.6 General Indemnity

23.6.1 Vendor's Indemnity

- (A) At Vendor's expense and as described herein, Vendor agrees to (i) indemnify, (ii) defend with counsel approved in writing by County, and (iii) hold County Indemnitees harmless from any claims, actions, proceedings, liability, damages, costs, and expenses, of any kind or nature arising out of, or in connection with: (a) any alleged act or failure to act by Vendor or its directors, officers, agents, or employees which has caused, or which is alleged to have caused (including negligent or willful misconduct), any injury to any Person or Persons or damage or loss to tangible property; (b) a breach of the provisions of Section 19 (Confidentiality) relating to Vendor's use of County Confidential Information; (c) a breach of the provisions of Section 21.1.8 (Compliance with Laws); (d) Vendor's decision to terminate or failure to observe or perform any duties or obligations to be observed or performed on or after the Commencement Date by Vendor under any of the Third Party Software licenses, Equipment Leases, or Managed Contracts assigned to Supplier by County or for which Vendor has assumed financial, administrative, or operational responsibility; (e) Vendor's failure to observe or perform any duties or obligations to be observed or performed by Supplier under Third Party Software licenses, equipment leases, or Managed Contracts entered into by Vendor and used in providing the Services; (f) occurrences that Vendor is required to insure against pursuant to Section 23 (Insurance and Indemnity), to the extent of the coverage required therein; (g) Vendor's acts or omissions during the interview, hiring, or transition process with respect to any County Personnel or former County Personnel; (h) Taxes, together with interest and penalties, that are the responsibility of Supplier under Section 11.5 (Taxes); (i) any breach (or claim or threat thereof that, if true, would be a breach) of any of the warranties, agreements, representations, or obligations of Vendor under this Agreement; (j) claims by government regulators or agencies for fines, penalties, sanctions, or other remedies arising from or in connection with Vendor's failure to perform its responsibilities under this Agreement; or, (k) any action brought by any Vendor Personnel or Subcontractor seeking to be treated as a County employee or claiming entitlement to any County employee benefits other than with regard to periods during which they were actually employed by County ((a) through (k) above are individually each, and collectively all, referred to as "**Indemnity Claims**"). For the avoidance of doubt, Vendor understands and agrees that the County Board of Supervisors is specifically authorized under this Agreement and required by law to direct and control litigation and conduct actions as provided by Government Code Section 25203. Consequently, Vendor will pay for the defense using counsel selected by and reporting to County. In the event there are damages and/or expenses, including attorney's fees, which Supplier is obligated to pay and pays under this Section 23.10.1 (Vendor's Indemnity), and it is Finally Determined that liability for such damages and/or expenses, including attorney's fees, is attributable to acts or omissions by the County, County shall reimburse Vendor for such damages

and/or expenses, including attorney's fees, paid by Supplier in proportion to the percentage of liability for such damages and/or expenses, including attorney's fees, Finally Determined to be attributed to the County.

- (B) Supplier shall pay all amounts that a court awards or that County agrees to in settlement as to any such Indemnity Claims, as well as any and all reasonable attorneys' fees and costs of investigation arising from such Indemnity Claims incurred by County or any other party indemnified under this Section 23.10 (General Indemnity) associated with such Indemnity Claims and incurred prior to Supplier's assumption of the defense against any Indemnity Claims.

23.7 Indemnities Throughout Agreement

It is understood and agreed by the Parties that Vendor's indemnification obligations are set forth throughout this Agreement and are not confined to this Section 23 (Insurance and Indemnity).

24. DISPUTE RESOLUTION

24.1 Dispute

24.1.1 Informal Dispute Resolution

The Parties shall resolve their disputes informally to the maximum extent possible. The Parties shall negotiate all matters of joint concern in good faith, with the intention of resolving issues between them in a mutually satisfactory manner and in accordance with the requirements of this Section 24 (Dispute Resolution). All disputes raised by either Party for resolution under this Section 24 (Dispute Resolution) shall be documented in writing by each Party and shall state the specifics of each alleged dispute, all actions taken to resolve the dispute, and the Agreement provisions supporting the Party's position. If any Disagreement, other than a dispute involving a claim of breach under Section 19 hereof, arises between the Parties, Vendor's Relationship Manager and the County's Relationship Manager shall, within seven (7) Business Days after receipt by either of documented notice from the other of such Disagreement, commence efforts to resolve such Disagreement in good faith via the Operations Committee (such committee further described in Schedule 1). If the Disagreement has not been resolved by the Relationship Managers within thirty (30) Business Days after first having been referred to the Relationship Managers (or at any earlier time, in the discretion of either Relationship Manager), such dispute may be referred by either Relationship Manager to the Strategy Committee (such committee further described and defined in Schedule 1) for resolution. If a disputed matter is referred to the Strategy Committee and such disputed matter has not been resolved by, or at the direction of, the Strategy Committee within thirty (30) Business Days after such dispute was first referred to it (or such longer period as agreed to in writing by the Parties), or if a disputed matter shall not have been referred to the Strategy Committee within forty-five (45) Business Days after first having been referred to the Relationship Managers for resolution, then the disputed matter shall be escalated to the CIO and Vendor's Sector President for resolution. If such disputed matter has not been resolved by, or at the direction of, the CIO and Vendor's Sector President within thirty (30) Business Days after such dispute was first referred to them (or such longer period as agreed to in writing by the Parties), then the Parties may pursue other remedies and dispute resolution options as set forth in this Agreement.

24.1.2 Dispute Resolution Mandatory

The dispute resolution process provided in this Section 24 (Dispute Resolution) is a prerequisite to the exercise of any judicial remedies available to the Parties (including any claim for breach

of contract pursuant to Section 14.4.1 (Termination for Cause by County) or Section 14.4.2 (Termination for Cause by Supplier)), except in cases where (A) a Party is seeking injunctive or other equitable relief in accordance with Section 19.4 (Injunctive Relief); (B) the County's operations are materially impacted or threatened to be materially impacted; or, (C) the health or safety of the County's population warrants, in the County's sole discretion as determined by the County's CIO in consultation with County Counsel, proceeding with other judicial, contractual, or other remedies without first attempting Dispute Resolution.

24.2 Mediation

If the informal dispute resolution process described in Section 24.1.1 fails to resolve a dispute between the Parties, County and Vendor may mutually agree to submit the matter to non-binding mediation and may jointly appoint an independent mediator acceptable to both Parties to manage the negotiations. Notwithstanding the foregoing, either Party may elect to terminate mediation discussions with written notice to the other Party and avail itself of other dispute resolution remedies set forth herein.

24.3 No Termination or Suspension of Services (Continued Performance)

Notwithstanding anything to the contrary contained elsewhere herein, even if any Disagreement or other dispute arises between the Parties, and regardless of whether or not any such Disagreement or other dispute requires at any time the use of the dispute resolution procedures described above, in no event nor for any reason shall Vendor, at any time during the Term or during Disentanglement, halt, interrupt, or suspend the provision of Services to the County except for the duration of a valid Force Majeure Event.

24.4 Remedies

The procedures described and remedies provided in this Section 24 shall not be deemed to limit either Party's rights under Section 14 or Section 16. Vendor expressly acknowledges that any breach of any provision of Section 24.3 by Vendor, the Vendor Personnel, or Vendor's Subcontractors may cause immediate and irreparable injury to the County that cannot be adequately compensated for in damages, and that, in the event of any such breach, and in addition to all other remedies available to it, the County shall be entitled to seek injunctive or other equitable relief from any court of competent jurisdiction, without bond or other security.

25. USE OF AFFILIATES AND SUBCONTRACTORS

25.1 General

Vendor shall not subcontract all or any part of the Services without the prior written consent of the CIO, which may be granted in the CIO's sole and absolute discretion. Each Subcontractor may perform only the Services described with regard to such Subcontractor in a written request submitted by Vendor to the County when seeking such consent. No change may be made to the Services performed by a particular Subcontractor, and no substitution, replacement, or change of Subcontractors may be made, without the advance written consent of the CIO, which may be granted in the CIO's sole and absolute discretion. Notwithstanding the foregoing, Vendor may substitute, replace, or change any Subcontractor, or change the scope of Services to be performed by such Subcontractor under any subcontract, upon thirty (30) calendar days advance written notice to the CIO, unless the CIO objects to such substitution, replacement, or change of such Subcontractor, or change of scope of Services of such Subcontractor, within such thirty (30) calendar days. Performance of Services by all Subcontractors shall be in accordance with the terms and conditions of this Agreement. Vendor may, at Vendor's sole discretion, extend select terms of this Agreement to such Subcontractors as may be appropriate given the Subcontractor's scope of

responsibilities, relative size, nature of Subcontractor's offer and other such reasonably relevant parameters as the Vendor may determine. The County shall not consider the Vendor in breach of this Agreement to the extent the Vendor chooses not to extend some or all of the terms of this Agreement to those Subcontractors pursuant to this provision. Prior to performing any Services, each Subcontractor shall execute a Confidentiality Agreement in accordance with Section 19.3 hereof. Vendor covenants that its arrangements with Subcontractors shall not prohibit or restrict any such Subcontractor from, at any time, entering into direct agreements with the County. Notwithstanding anything to the contrary set forth in this Section 25 or elsewhere in this Agreement, Vendor shall not engage any Subcontractors that are or now or hereafter debarred or suspended from performing services for the County or the United States government.

25.2 Approval and Removal

The CIO's consent with respect to Vendor's use of a particular proposed Subcontractor, shall be given or withheld in writing within Vendor's reasonably requested timeframe (not to exceed thirty (30) calendar days). If the CIO determines, in its reasonable discretion, that the performance or conduct of any Vendor Subcontractor or Affiliate is unsatisfactory, the CIO may notify Vendor of such determination in writing, indicating the reasons therefor, and Vendor shall promptly take all necessary actions to remedy the performance or conduct of such Subcontractor or Affiliate and, if so requested by the County, to promptly replace such Subcontractor or Affiliate.

25.3 Responsibility and Liability

Vendor shall be solely and exclusively responsible for supervising the activities and performance of each Subcontractor. Notwithstanding the fact that a Subcontractor or Affiliate of Vendor may be the party actually performing a particular Service or providing a particular Deliverable hereunder, Vendor shall at all times: (a) constitute the primary obligor for all of Vendor's duties and obligations hereunder; and (b) be liable and responsible as a principal for the performance of all of the duties and obligations of Vendor hereunder that Vendor may elect to subcontract to any of its Subcontractors or Affiliates, or to any other third party.

25.4 Approved Subcontractors

Attachment K, Approved Subcontractors lists those Subcontractors approved by the County as of the Effective Date of this Agreement, their individual responsibilities in delivering the Services, and any other such information as the Parties may agree.

26. PUBLICITY

Vendor, and Vendor's Subcontractors, shall in no event issue or publish a press release, article, brochure, or other form of publication, promotional materials, or advertisement that includes statements about this Agreement, the County and its agencies, or in any way use any logo, trademark, or other symbol of the County and its agencies, without obtaining in advance the County's written consent to the form and substance of such issuance, publication, advertisement, or use. Notwithstanding the foregoing, Vendor may identify the County as a reference for all prospective customers of Vendor interested in obtaining services that are the same or substantially similar to the Services hereunder, unless directed not to do so by the County.

27. MISCELLANEOUS

27.1 Entire Agreement

This Agreement, including all Schedules, Attachments, and other documents annexed hereto (the terms of each of which are incorporated herein by this reference), constitutes the entire understanding and agreement between the Parties with respect to the transactions contemplated herein and supersedes all other prior or contemporaneous oral or written communications, understandings or discussions with respect to the subject matter of this Agreement. No usage of trade, or other regular practice or method of dealing between the Parties or others, may be used to modify, interpret, supplement, or alter in any manner the express terms of this Agreement.

27.2 Captions; Section Numbers; Terminology

Captions, Tables of Contents, and Section, Schedule, and Attachment titles and headings are used herein for convenience of reference only and shall not be used in the construction or interpretation of this Agreement. Except as otherwise specifically identified in this Agreement, any reference herein to a particular Section, or a particular Schedule or Attachment (e.g., Schedule 2 (Statements of Work)), shall be deemed a reference to the Section, or the Schedule or Attachment, or this Agreement that bears the specified number. Further, any reference herein to a particular Section number (e.g., "Section 2"), shall be deemed a reference not only to the referenced Section but also to all subsections thereof (e.g., a reference to "Section 2" refers to Sections 2.1, 2.1.1, 2.2, 2.2.1, 2.2.1.1, etc.).

27.3 Assignment

Except for subcontracting permitted under the terms of Section 25, neither this Agreement, nor any interest herein, nor any of the rights and obligations of Vendor hereunder, may be directly or indirectly assigned, sold, delegated, or otherwise disposed of by Vendor, in whole or in part, without the prior written consent of the County, which consent may be granted or withheld in the sole and absolute discretion of the County. For purposes hereof, an "assignment" subject to the terms and conditions of this Section shall be deemed to have occurred in the event of any change in control of Vendor (whether resulting from a single transaction or series of related transactions), restructuring of Vendor, transfer or removal of a material amount of Assets from Vendor, or assumption of debt by Vendor that results in Vendor's net worth being materially less than it was on the Effective Date. Except in the case of an assignment to a competitor of Vendor, the County shall be entitled to assign, sell, or dispose of, this Agreement, its interest herein and its rights and obligations hereunder with the Vendor's consent which shall not be reasonably without the prior written consent of the Vendor. Any assignment made by Vendor in violation of this Section 27.3 shall be null and void and of no force and effect.

Notwithstanding the provisions above, the Parties acknowledge that the currently contemplated Vendor transaction that will result in the separation of the Vendor into two companies shall not be considered a change of control and shall not require further approval by the County. Notification of the contemplated transaction was filed with the U. S. Securities and Exchange Commission via a Form 8-K on August 30, 2012.

27.4 Notices to a Party

Any notices required or permitted to be given hereunder by either Party to the other Party shall be given in writing (A) by personal delivery, (B) by electronic facsimile or electronic mail with confirmation receipt by the receiving Party, (C) by bonded courier or by a nationally recognized overnight delivery company; or, (D) by United States first class registered or certified mail, postage prepaid, return

receipt requested, in each case, addressed to the Parties as follows (or to such other addresses as the Parties may request in writing by notice given pursuant to this Section 27.4):

Notices to the County shall be addressed as follows:

Orange County Information Technology
Attn: Chief Information Officer
721 S. Parker St., Suite 200
Orange, CA 92868
(714) 567-5075

Personal Service to the Clerk of the Board of Supervisors of the County of Orange is required for all legal process service on the County:

Clerk of the Board of Supervisors
400 W. Civic Center Dr., Sixth Floor
Santa Ana, CA 92701

Notices to Vendor shall be addressed as follows:

Science Applications International Corporation
Attention: Mark Holt
4065 Hancock Street
San Diego, CA 92110
Telephone: (619) 316-8055
Email: mark.k.holt@saic.com

Notices shall be deemed received on the earliest of personal delivery, upon delivery by electronic facsimile with confirmation from the transmitting machine that the transmission was completed, upon delivery by electronic mail, twenty-four (24) hours following deposit with a bonded courier or overnight delivery company, or seventy-two (72) hours following deposit in the U.S. Mail as required herein.

27.5 Amendments

Except as expressly provided herein, this Agreement may not be modified or amended except by written document duly executed by authorized representatives of both of the Parties hereto. No other act, document, usage or custom shall be deemed to amend or modify this Agreement. If either Party desires to amend this Agreement, the requesting Party shall deliver to the other Party's Relationship Manager a written request for an amendment, specifying the requested amendment with sufficient details to enable the other Party to reasonably evaluate it.

27.6 Waiver

No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or excusal is in writing and signed by the Party claimed to have waived or excused. The failure or delay of either Party to exercise any right, power, or privilege hereunder shall not constitute a waiver thereof. A waiver shall be effective only in the specific instance, and for the specific purpose, stated in such writing, and shall not preclude further exercise of the same right, power, or privilege or the exercise of any other right, power, or privilege hereunder.

27.7 Relationship Between and Legal Status of Parties

This Agreement shall in no event be construed in such a way that either Party constitutes, or is deemed to be, the representative, agent, employee, partner, or joint venturer of the other Party. Vendor is and shall at all times be an independent contractor with regard to all performance under this Agreement. Neither Party shall have the authority to enter into any agreement, nor to assume any liability, on behalf of the other Party, nor to bind or commit the other Party in any manner, except as expressly provided herein. Vendor's and its Subcontractors' employees who provide Services pursuant to this Agreement, or who at any time are located or provide Services on the County's premises, shall remain the respective employees of Vendor or its Subcontractors, as applicable, and Vendor and its Subcontractors shall have sole responsibility for all such employees, including responsibility for payment of all compensation to them, the provision of employee benefits to them, and responsibility for injury to them in the course of their employment. Neither Vendor, nor any employee or Subcontractor or anyone working for or with Vendor shall be considered an agent or an employee of County. Neither Vendor, nor its employees, Subcontractors nor anyone working under Vendor, shall qualify for workers' compensation or other fringe benefits of any kind through the County. Vendor and its Subcontractors shall be responsible for all aspects of labor relations with such employees, including their hiring, supervision, evaluation, discipline, firing, wages, benefits, overtime, and job and shift assignments, and all other terms and conditions of their employment, and the County shall have no responsibility whatsoever for any of the foregoing.

27.8 Non-Exclusive Remedies

Unless expressly provided otherwise in this Agreement, no remedy set forth in this Agreement shall be exclusive of any other remedy and each such remedy shall be in addition to and not in lieu of every other remedy given hereunder, or now or hereafter existing or available at law, in equity, by statute, or otherwise.

27.9 Severability

If any provision of this Agreement is determined by any court or tribunal of competent jurisdiction to be invalid or unenforceable, that provision shall be deemed severed and stricken from this Agreement and: (a) the remainder of this Agreement shall continue in full force and effect insofar as it remains a workable instrument to accomplish the intent and purposes of the Parties, as evidenced herein; and (b) the severed provision shall be deemed replaced by the valid, legal, and enforceable provision that comes closest to reflecting the intention of the Parties underlying the severed provision.

27.10 Counterparts

This Agreement may be executed in duplicate counterparts. Each such counterpart, if executed by both Parties, shall be an original and both such counterparts together shall constitute but one and the same document. This Agreement shall not be deemed executed unless and until at least one counterpart bears the signature of each Party's designated signatory.

27.11 Governing Law; Venue

The construction, formation, and interpretation of this Agreement, and the performance of the Parties hereunder, shall be governed and construed in accordance with the laws of the State of California, without regard to conflicts of laws provisions thereof. The exclusive venue for all actions or proceedings arising out of, or related to, this Agreement shall be in an appropriate state or Federal Court located in Orange County, CA, and each Party hereby irrevocably consents to the personal and subject matter jurisdiction of such court and waives any claim that such courts do not constitute a convenient and

appropriate venue for such actions or proceedings. The Parties specifically exclude from application to this Agreement the United Nations Convention on Contracts for the International Sale of Goods.

27.12 No Third Party Beneficiaries

This Agreement is an agreement by and between the Parties, and neither: (a) confers any rights upon any of the employees, agents, or contractors of either Party, or upon any other Person not a Party hereto; or (b) precludes any actions or claims against, or rights of recovery from, any Person not a Party hereto.

27.13 Expenses

Each Party shall be solely responsible for all expenses paid or incurred by it in connection with the planning, preparation, negotiation, and consummation of this Agreement.

27.14 Further Assurances

Each Party agrees to execute and deliver any and all additional documents and instruments, and take all other actions that may be necessary to give effect to this Agreement and all transactions and activities contemplated hereby.

27.15 Limitation of Future Contracts

The Parties acknowledge and agree that Vendor may be restricted in its future contracting with the County in accordance with applicable laws and regulations or other requirements imposed by or on County from time to time. Subject to such possible restrictions, Vendor shall be free to complete for future business with County on an equal basis with other service providers.

27.16 Bills and Liens

Vendor shall pay promptly all indebtedness for labor, materials, and equipment used in performance of the Services. Vendor shall not permit any lien or charge to attach to the Services, Assets, Software, Machines or any County premises, except as permitted or authorized under this Agreement. If any does so attach, Vendor shall promptly procure its release and, in accordance with the requirements of this Agreement, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.

27.17 Waiver of Jury Trial

To the extent applicable under California law, each Party acknowledges that it is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each Party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any Party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Agreement and /or any other claim of injury or damage.

27.18 Interpretation

This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly

declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Agreement by any other Party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the Party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Agreement.

27.19 Attorney Fees

In any action or proceeding to enforce or interpret any provisions of this Agreement, or where any provisions hereof is validly asserted as a defense, each Party shall bear its own attorney's fees, costs and expenses.

27.20 Survival

The following provisions shall survive the termination or expiration of this Agreement:

Sections: 1, 2, 4.1.1, 4.1.2, 4.3, 4.6, 5, 9.4, 10, 11.1, 11.3, 11.4, 11.5, 11.7, 11.11, 11.12, 12, 14.2, 14.8, 14.9, 15-27.

[SIGNATURE PAGE FOLLOWS]

The Parties have executed this Agreement on the dates indicated below, with the Effective Date as set forth in Section 1.3.

VENDOR*:

Print Name Title

Signature Date

**County of Orange,
a political subdivision of the State of California**

Date: By: County Chief Information Officer

APPROVED AS TO FORM
COUNTY COUNSEL

John H. Abbott, Deputy

APPENDIX 2B.5 TO SCHEDULE 2B
Revision 6
DATA CENTER MANAGEMENT TOOLS
for
COUNTY

This is Appendix 2B.5 (Data Center Management Tools) to the Agreement. Unless otherwise expressly defined herein, the capitalized terms used herein shall have the meaning assigned to them in the Agreement.

Data Center Management Tools

The Table below provides a listing and description of all Vendor Data Center Management tools, associated functionality and capabilities, standard reports and associated Service Area environments. This tool environment shall be supported and maintained by Vendor.

Table 1. Data Center Management Tools

Data Center Process	Product Name	Describe Functions & Features Including Real-time Data Access for the County (including manual and automated functions / integration points with other tools)	County Service Area Areas/Components where Tool will be used (e.g., Data Center - _____ and Windows servers)
Data Center System & Infrastructure Monitoring	██████████	The tool shall allow Vendor to monitor and manage business services and specific systems within the IT infrastructure, including servers, databases, applications, and virtualized environments, proactive recovery from outage or service degradation, integration to Vendor's ██████████ (██████) Incident and Problem system, log file consolidation and correlation	Data center environments status: ██████████, ██████████ and ██████████ hardware platforms
End-to-end system availability monitoring (infrastructure and application)	██████████	The tool shall allow Vendor to monitor and manage business services and specific systems within the IT infrastructure, including servers, databases, applications, and virtualized environments, proactive recovery from outage or service degradation, log file consolidation and correlation, integration to Vendor's ██████████ (██████) Incident and Problem system	Data center environments status: ██████████, ██████████ and ██████████ hardware platforms
End-to-end system performance monitoring (infrastructure and application)	██████████	The tool shall allow Vendor to monitor and manage business services and specific systems within the IT infrastructure, including servers, databases, applications, and virtualized environments, access to real-time and historical system performance and capacity utilization, log file consolidation and correlation	Data center environments status: ██████████, ██████████ and ██████████ hardware platforms
Job Scheduling, Implementation, Execution	██████████	The tool shall allow Vendor to schedule control and execution for batch job schedule activities (Vendor to utilize County-owned licenses. Vendor to install the license updates on open Systems platforms.	All batch scheduling of job packages and restarts

Data Center Process	Product Name	Describe Functions & Features Including Real-time Data Access for the County (including manual and automated functions / integration points with other tools)	County Service Area Areas/Components where Tool will be used (e.g., Data Center - _____ and Windows servers)
Electronic Data Exchange Transaction Monitoring	[REDACTED]	Vendor shall utilize County-owned licenses to monitor file transfers	File transfers for OCIT and agencies
Applications Monitoring	[REDACTED]	The tool shall allow Vendor to monitor and manage business services and specific systems within the IT infrastructure, including servers, databases, applications, and virtualized environments, access to real-time and historical system performance and capacity utilization	Data center environments status; [REDACTED], [REDACTED] and [REDACTED] hardware platforms; and applications and services hosted
Storage and Data Management Storage Performance Monitoring	[REDACTED]	The tools shall allow Vendor to manage storage subsystem (SANs and backup)	Storage subsystem performance, capacity reporting and availability
Database Performance Monitoring Tools	[REDACTED]	Vendor shall utilize the tools for database performance monitoring	All County utilized database structure (e.g., [REDACTED] and [REDACTED]) in scope
Database Activity Monitoring Tools	DPA [REDACTED]	Vendor shall utilize the tools for database activity monitoring	All County utilized database structure (e.g., [REDACTED] and [REDACTED]) in scope

Data Center Process	Product Name	Describe Functions & Features Including Real-time Data Access for the County (including manual and automated functions / integration points with other tools)	County Service Area Areas/Components where Tool will be used (e.g., Data Center - ___ and Windows servers)
Server Administration	[REDACTED]	Updates of software and patches on Windows, [REDACTED] servers	Server infrastructure: Data Center [REDACTED], [REDACTED] and [REDACTED] servers
Data Center Service Level Monitoring, Measurement and Reporting Tools			
System Availability	[REDACTED]	All service infrastructure components reporting and dashboards	All service infrastructure components
Application Platform Response Time	[REDACTED]	All application service infrastructure components reporting and dashboards	All application service infrastructure components
Batch Processing	[REDACTED]	Batch execution reports and dashboards	Batch process cycle
General Administrative Functions	[REDACTED]	Operations and program function reporting and dashboards	PMO and contract execution functions
Storage Administration	[REDACTED]	Vendor shall use the County provided storage management tools for storage utilization and administration reports and dashboards	Storage and data service infrastructure
Server Administration	[REDACTED]	Vendor shall use the tools server administration management tools for server administration and utilization reports and dashboards	Server infrastructure
Database Administration	[REDACTED]	Vendor shall use the tools for database administration and utilization reports and dashboards	Databases
IT Continuity and DR	[REDACTED]	Vendor shall use the tools for IT and continuity support reports and dashboards	IT continuity and DR infrastructure and process

Data Center Process	Product Name	Describe Functions & Features Including Real-time Data Access for the County (including manual and automated functions / integration points with other tools)	County Service Area Areas/Components where Tool will be used (e.g., Data Center - _____ and Windows servers)
Security	[REDACTED]	The tools shall be a comprehensive vulnerability analysis solution that provides complete visibility into the security posture of the managed server environment. Software to protect end points from malware and viruses as well as protections for electronic mail.	Security process and infrastructure
Capacity and Availability Management Monitoring/Trending/Reporting	[REDACTED]	Vendor shall use the Vendor provided products to monitor and manage business services and specific systems within the IT infrastructure, including servers, databases, applications, and virtualized environments, access to real-time and historical system performance and capacity utilization	Data Center
System Software Refresh and Updates	[REDACTED]	Vendor shall use the Vendor provided tools for Windows servers. [REDACTED] has its own utility for [REDACTED], and we will use the tool already owned by the County.	Data Center

APPENDIX 2E.4 TO SCHEDULE 2E

Revision 3

DESKTOP SUPPORT TOOLS

FOR

COUNTY

This is Appendix 2E.4 (Desktop Support Tools) to the Agreement. Unless otherwise expressly defined herein, the capitalized terms used herein shall have the meaning assigned to them in the Agreement.

Desktop Support Tools

The Table below provides a listing and description of all Vendor Desktop Support tools, associated functionality and capabilities, standard reports and associated Service Area environments. This tool environment shall be supported and maintained by Vendor.

Table 1. Desktop Support Tools

Desktop Support Process	Product Name	Describe Functions & Features Including Real-time Data Access for the County (including manual and automated functions / integration points with other tools)	County Service Area Areas/Components where Tool will be used (e.g., desktops)
Core Software Image Deployment Management	[REDACTED]	Deployment Image Servicing and Management for creation and deployment of system images.	Desktops and Laptops
Automated Application Software Image Deployment Management	[REDACTED] and [REDACTED]	[REDACTED] shall be used for the deployment of software applications to all County managed devices on the County's network. [REDACTED] is used for the Deployment of software applications to all County managed devices off the County's network (primarily laptops).	Desktops and Laptops
IMACD Management	[REDACTED]	The tool shall track and manage all service requests, including all IMACD management	All Service Areas
Desktop Support Service Level Monitoring, Measurement and Reporting Tools			
Software Installation	[REDACTED] and [REDACTED]	[REDACTED] shall be used for the deployment of packaged software and updates to all devices while on the county network. Packaged applications should be installed silently and perform a reboot if needed. [REDACTED] shall be used for the deployment of packaged software and updates to all devices while off the county network. Packaged applications should be installed silently and perform a reboot if needed. This should apply primarily to laptops.	Desktop, Service Desk
IMACDs	[REDACTED]	Tool to track and manage all service requests, including all IMACD management	Desktop
Remote Diagnostics	[REDACTED]	Remote diagnostic and remote assistance tool across Windows and OS X systems	Desktop, Service Desk
Power Management	[REDACTED]	Tools for power management	Desktop

Desktop Support Process	Product Name	Describe Functions & Features Including Real-time Data Access for the County (including manual and automated functions / integration points with other tools)	County Service Area Areas/Components where Tool will be used (e.g., desktops)
Electronic Software Distribution and Version Control	[REDACTED]	Provides software distribution tools	Desktop
Desktop Configuration Management	[REDACTED] and [REDACTED]	<p>The tools shall allow for the management of in-scope computers under this Agreement. Vendor understands that agencies within the County of Orange have an existing investment for use in maintaining the configurations of computers. Vendor further understands that many, but not all, of the in-scope computers are currently covered by a license. Vendor assumes the County will provide all existing tool licenses to Vendor for use in supporting in-scope computers.</p> <p>[REDACTED] is used for the Deployment of software applications to all County managed devices off the County's network (primarily laptops).</p>	Desktop

Appendix 4.1 to Schedule 4
 Service Level Requirements and Fee Reduction Weighting Factors
 Revision 10

ATTACHMENT A

Appendix 4.1 (SAIC), Revision 10 Service Level Requirements and Fee Reduction Weighting Factors											
Business Day means any day on which the County of Orange is open for business. *Business Hours* means [redacted] Pacific Time on a Business Day. Unless Performance Target says business day/hours, SLR is measured in continuous day/hours.											
SLR #	SLR	Service Measure	Performance Target	Minimum Performance	Measurement Interval	Reporting Period	Formula	Measurement Tool	Weighting Factor Monthly SLR's March, May, June, September, November and December	Weighting Factor Monthly and Quarterly SLR's January, April, July and October	Weighting Factor Monthly, Semi- Annual and Annual February and August
IT Service Management & Life Cycle Services											
SLR 1 ITSM-01	Work Order Proposal Response (e.g., timelines, deliverables, pricing, assumptions and constraints, comprehensive and complete written documentation, required Vendor authorized approvals)	Proposal Delivery	Ten (10) Business Days, or a date mutually agreed to between the parties.	100%	Monthly	Monthly	Performance = Proposal request delivered within required time/total proposals requested by County	[redacted] Records SLR ITSM-01	2%	2%	2%
SLR 1.1	Work Order Acknowledgement and Time Estimate	Time to contact County requester of any Other Services proposal.	Three (3) Business Days to acknowledge receipt of the request and provide an initial time estimate for Vendor's completion of the Other Services proposal. Any agreement by the County requester on a date for delivery of the Other Services proposal will be reported in the County-provided Service Management System (currently [redacted] or via County-provided email(s) which document the acknowledgement. SLR pertains to Work Orders only	100%	Monthly	Monthly	100 x (Total number of Work Order Acknowledgements/Time Estimates delivered by Vendor on or before the deadline during the Month/total number of Work Order Acknowledgements/Time Estimates due to be provided by the Performance Target during that same month)		1%	1%	1%
System Software Refresh and Updates											
Vendor will perform up to one System Software version or major release modification and unlimited service pack/minor release modifications and patch modifications per year per installed system unless approved otherwise by County. Successful completion is when a Patch and/or Update is deployed and applied to an Endpoint.											
SLR 2 ITSM-02	Deploy Emergency/Out-of-Band ("OOB") (with different severity ratings, usually either critical or urgent) Maintenance Release (e.g., security pack, bug Patch, antivirus, anti-SPAM, and anti-Spyware Update deployments)	Time to deploy	Perform same Business Day as Approved by the County or per County Approved schedule. Subject to agreed upon Change Management procedures	100.0%	Monthly	Monthly	Number of Endpoints deployed and applied successfully/Total number of Endpoints (Excluding Inactive Endpoints for the duration of the deployments preventing deployment of the Update)	[redacted] Records SLR measurement ITSM-02	5%	5%	5%
SLR 3 ITSM-03	Deploy Non-Emergency/In-Band (and always rated "critical") Maintenance Release (e.g., XYZ Version 8.1.5 to XYZ Version 8.1.6; Microsoft cumulative Update/security Patch)	Time to deploy	Perform within next regular Maintenance Window or within thirty (30) calendar days, whichever is sooner, following availability of release for deployment or per County Approved schedule. Subject to agreed upon Change Management procedures.	95.0%	Monthly	Monthly	Number of Endpoints (excluding Vendor managed servers) deployed and applied successfully/Total number of Endpoints (Excluding Vendor managed servers, Inactive Endpoints for the duration of the deployments preventing deployment of the Update)	[redacted] Records measurement SLR ITSM-03	5%	5%	5%
SLR 3.1 ITSM-03.1	Deploy Non-Emergency/In-Band (and always rated "critical") Maintenance Release (e.g., XYZ Version 8.1.5 to XYZ Version 8.1.6; Microsoft cumulative Update/security Patch)	Time to deploy	Perform within next regular Maintenance Window or within 30 calendar days, whichever is sooner, following thirty (30) calendar days past availability of release for deployment or per County Approved schedule. Subject to agreed upon Change Management procedures.	99.0%	Monthly	Monthly	Number of Endpoints (only Vendor managed servers/other non-desktop) deployed and applied successfully/Total number of Endpoints (only Vendor managed servers/other non-desktop, excluding Inactive Endpoints for the duration of the deployments preventing deployment of the Update)	[redacted] Records measurement SLR ITSM-03.1	1%	1%	1%
SLR 4 ITSM-04	Implementation of Enhancement Release (e.g., XYZ Version 8.1 to XYZ Version 8.2; Microsoft feature Updates (e.g., Version [redacted]), feature Updates, service packs, drivers, OOB advisories)	Time to deploy	Within thirty (30) business days after notification by County Security Operation Center (SOC) and/or the End User & Operations Manager or per County Approved project schedule. Beginning of thirty (30) calendar days period must not start prior to the thirty (30) calendar days contractual cooling period after release of the new patches or software enhancement.	94%	Monthly	Monthly	Number of Endpoints deployed and applied successfully/Total number of Endpoints (Excluding Inactive Endpoints for the duration of the deployments preventing deployment of the Update)	[redacted] Records measurement SLR ITSM-04	5%	5%	5%

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SLR #	SLR	Service Measure	Performance Target	Minimum Performance	Measurement Interval	Reporting Period	Formula	Measurement Tool	Weighting Factor Monthly SLR's March, May, June, September, November and December	Weighting Factor Monthly and Quarterly SLR's January, April, July and	Weighting Factor Monthly, Semi- Annual and Annual February and August
SLR 5 ITSM-05	Implementation of Major Release Updates (e.g. XYZ Version 8 to XYZ Version 9; feature Updates, service packs, drivers, OOB advisories)	Time to deploy	Identify and notify County within thirty (30) calendar days of the availability of the Major Release Update. Vendor shall complete deployment per County Approved project schedule or within sixty (60) calendar days after County notification to proceed and beginning no sooner than thirty (30) calendar days after release availability date of the major release. Upon completion of Approved deployment and/or project schedule, the minimum performance and formula would apply.	94%	Monthly	Monthly	Number of Endpoints deployed and applied successfully/Total number of Endpoints (Excluding Inactive Endpoints for the duration of the deployments -preventing deployment of the Update)	Records measurement - SLR ITSM-05	5%	5%	5%
Incident Resolution											
SLR 6	Incident and impact to CEOIT and the impacted agency(s)	Time to respond	[REDACTED]	98% Transaction Range Amount of Failures that Cause SLR Miss 0-25 >1 = 2 Failures cause a miss 26-50 >2 = 3 Failures cause a miss Monthly measurement with 51 or more Transactions will follow the 98% Minimum Performance calculation.	Monthly	Monthly	Number of requests completed within performance target/total of all requests occurring during Measurement Interval	R/Y/G Notification timestamps	2%	2%	2%
SLR 7	Time to Notify County of a Priority 3 or 4 Incident	Time to respond	<30 minutes	98% Transaction Range Amount of Failures that Cause SLR Miss 0-25 >1 = 2 Failures cause a miss 26-50 >2 = 3 Failures cause a miss Monthly measurement with 51 or more Transactions will follow the 98% Minimum Performance calculation.	Monthly	Monthly	Number of requests completed within performance target/total of all requests occurring during Measurement Interval	Notification emails	1%	1%	1%
SLR 8 ITSM-08	Incident Resolution - Priority Level 1	Time to Resolve	<4 hours	98% Transaction Range Amount of Failures that Cause SLR Miss 0-25 >1 = 2 Failures cause a miss 26-50 >2 = 3 Failures cause a miss Monthly measurement with 51 or more Transactions will follow the 98% Minimum Performance calculation.	Monthly	Monthly	Number of requests completed within performance target/total of all requests occurring during Measurement Interval	Records measurement - SLR ITSM -08	13%	13%	13%
SLR 9 ITSM-09	Incident Resolution - Priority Level 2	Time to Resolve	<8 hours	98% Transaction Range Amount of Failures that Cause SLR Miss 0-25 >1 = 2 Failures cause a miss 26-50 >2 = 3 Failures cause a miss Monthly measurement with 51 or more Transactions will follow the 98% Minimum Performance calculation.	Monthly	Monthly	Number of requests completed within performance target/total of all requests occurring during Measurement Interval	Records measurement - SLR ITSM -09	9%	7%	9%
SLR 10 ITSM-10	Incident Resolution - Priority Level 3	Time to Resolve	<3 Calendar Days or within an agreed upon time frame	95% Transaction Range Amount of Failures that Cause SLR Miss 0-10 >1 = 2 Failures cause a miss 11-20 >2 = 3 Failures cause a miss Monthly measurement with 21 or more Transactions will follow the 95% Minimum Performance calculation.	Monthly	Monthly	Number of requests completed within performance target/total of all requests occurring during Measurement Interval	Records measurement - SLR ITSM -10	3%	3%	3%
SLR 11 ITSM-11	Incident Resolution - Priority Level 4	Time to Resolve	<5 Calendar Days or within an agreed upon time frame	95% Transaction Range Amount of Failures that Cause SLR Miss 0-10 >1 = 2 Failures cause a miss 11-20 >2 = 3 Failures cause a miss Monthly measurement with 21 or more Transactions will follow the 95% Minimum Performance calculation.	Monthly	Monthly	Number of requests completed within performance target/total of all requests occurring during Measurement Interval	Records measurement - SLR ITSM -11	2%	2%	2%

Appendix 4.1 to Schedule 4
Service Level Requirements and Fee Reduction Weighting Factors
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SLR #	SLR	Service Measure	Performance Target	Minimum Performance	Measurement Interval	Reporting Period	Formula	Measurement Tool	Weighting Factor Monthly SLR's March, May, June, September, November and December	Weighting Factor Monthly and Quarterly SLR's January, April, July and	Weighting Factor Monthly, Semi- Annual and Annual February and August
SLR 12 ITSM-12A ITSM-12B	Final Root Cause Analysis	Time to provide final Root Cause Analysis report that includes, at a minimum: 1) Complete assessment of impacted Services; 2) Explanation of root cause and CI impacted; and 3) Detailed plan to prevent future occurrences	Within five (5) Business Days of Incident Resolution for Priority Level 1 or 2 or within the time frame Approved by the County. The Service Ticket will be placed in pending Status at the time the RCA is submitted to the County for review, and taken out of pending Status once the County's review is finished.	98% Transaction Range Amount of Failures that Cause SLR Miss 0-25 > 1 = 2 Failures cause a miss 26-50 > 2 = 3 Failures cause a miss Monthly measurement with 51 or more Transactions will follow the 98% Minimum Performance calculation.	Monthly	Monthly	Number of requests completed within performance target/total of all requests occurring during Measurement Interval	Records measurement ITSM-12A, ITSM-12B	2%	2%	3%
SLR 12.1	Draft Root Cause Analysis ITIL FORM	Time to provide draft Root Cause Analysis report	By no later than the next Business Day following Incident Resolution for Priority Level 1 or 2	98% Transaction Range Amount of Failures that Cause SLR Miss 0-25 > 1 = 2 Failures cause a miss 26-50 > 2 = 3 Failures cause a miss Monthly measurement with fifty-one (51) or more Transactions will follow the normal percentage calculation.	Monthly	Monthly	100 x (Total number of successful Draft RCA Reports provided within the performance target during a month/total number of draft RCA reports due to be provided within the same month)	County-provided Service Management System (currently [REDACTED])	3%	3%	3%
SLR 12.2	Success of Final Root Cause Analysis Recommended Actions	Impact of uncompleted agreed to corrective action	Reoccurrence of a initial Problem, shown by a subsequent RCA report to have been solely caused by Supplier's failure to implement a Supplier's corrective action(s) by the mutually agreed to date identified in the final RCA report for the initial Problem.	100.0%	Monthly	Monthly	One hundred percent of final RCA report corrective actions that are not implemented by Supplier by the date mutually agreed to by the Parties shall not be the sole cause of a reoccurrence of a Problem documented by an RCA		3%	3%	3%
<p>Backup and Restoration</p> <p>Vendor shall implement and maintain backup and restoration capabilities for specified Service Area data, applications and component configurations as defined in each Service Area SOW. Vendor shall perform error and omission-free incremental backups, full backups and full archive backups according to the Backup Schedule presented below. Recovery procedures will be capable of restoring Service delivery for failed Service Area data, applications and component configurations according to the Restoration SLRs listed below. Service Area components requiring scheduled backups shall be referenced in the service environment section of each Service Area SOW.</p> <p>Vendor shall continually monitor backup jobs and immediately identify and fix any failures to ensure successful reruns to meet frequency requirements. Such timely reruns shall be considered as successful completion of the SLR.</p>											
SLR 13	Daily Backup Onsite Retention for 20 days	Successful backup and storage	Daily/Incremental Backup completion within 24 hours. Weekly/Monthly Full Backup completion within 48 hours or prior to next business day start of Daily/Incremental Backups.	99%	Monthly	Monthly	Number of backups completed on schedule/total of all backups scheduled during Measurement Interval	Native Backup System Reporting Tool	4%	4%	5%
SLR 14	[REDACTED] Archive Backup Offsite Storage Retention pursuant to County retention policy per the most current County Records Management Policy, with changes governed by the Change Management process	Successful Offsite Archive	Approved archive production schedule	100%	Monthly	Monthly	Number of archives completed on schedule/total of all archives scheduled during Measurement Interval	Native Backup System Reporting Tool	2%	2%	2%
SLR 15	Daily Remote (Offsite) Replication for cloud archives and DR Site Pursuant to County retention policy per the most current County Records Management Policy, with changes governed by the Change Management process	Successful Replication	Replication frequency	100%	Monthly	Monthly	Number of successful replications/total of all replications during Measurement Interval	Native Backup System Reporting Tool	0%	0%	0%
SLR 16	Quarterly Test of each type of backup restore process	Test results	Quarterly Successful test of each type of backup restore process	100%	Quarterly	Quarterly	Number of quarterly tests completed on schedule/total of all quarterly tests scheduled during Measurement Interval	Records - Quarterly Test Service Requests	0%	0%	0%
Restoration SLRs											
SLR 17 ITSM-17	Production Data Restore Requests	Commencement time for data retention pursuant to County retention policy per the most current County Records Management Policy, with changes governed by the Change Management process	Commence restore ≤ 4 hours from County request	95% Transaction Range Amount of Failures that Cause SLR Miss 0-10 > 1 = 2 Failures cause a miss 11-20 > 2 = 3 Failures cause a miss Monthly measurement with 21 or more Transactions will follow the 95% Minimum Performance calculation.	Monthly	Monthly	Number of requests completed within performance target/total of all requests occurring during Measurement Interval	Records measurement - SLR ITSM - 17	5%	5%	5%

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SLR 18 ITSM-18	Non-Production Data Restore Requests	Commencement time for data retention pursuant to County retention policy per the most current County Records Management Policy, with changes governed by the Change Management process	Commence restore ≤ 8 business hours from County request	95% Transaction Range Amount of Failures that Cause SLR Miss 0-10 > 1 = 2 Failures cause a miss 11-20 > 2 = 3 Failures cause a miss Monthly measurement with 21 or more Transactions will follow the 95% Minimum Performance calculation.	Monthly	Monthly	Number of requests completed within performance target / total of all requests occurring during Measurement Interval	Records measurement - SLR ITSM - 18	0%	0%	0%
SLR 19 ITSM-19	Production and Non-Production Data Restore Requests	Commencement time for data greater than █ days old	Commence restore within 3 Business Days	95% Transaction Range Amount of Failures that Cause SLR Miss 0-10 > 1 = 2 Failures cause a miss 11-20 > 2 = 3 Failures cause a miss Monthly measurement with 21 or more Transactions will follow the 95% Minimum Performance calculation.	Monthly	Monthly	Number of requests completed within performance target / total of all requests occurring during Measurement Interval	Records measurement - SLR ITSM - 19	5%	5%	5%
Asset Tracking and Management		Within five (5) Business Days after the first Business Day of each calendar quarter, Vendor shall select a statistically valid sample, based on the approved asset management report and in accordance with the process specified in the Policies, Standards and Procedures Manual, to measure Vendor compliance with the following SLR pertaining to the accuracy of individual data elements in the Asset tracking database. Accuracy of data shall adhere to the following SLR.									
SLR 20	Accuracy of Data Elements in Asset Tracking Database with the following fields: 1) █ 2) █ 3) █ 4) █ 5) █ 6) █ 7) █ 8) █ 9) █ 10) █ 11) █ 12) █ 13) █ 14) █ 15) █ 16) █ 17) █ 18) █ * Vendor will load data the County provides for this attribute under best efforts approach, where applicable. The presence/absence of this data will NOT be factored into the SLR calculation.	Accuracy as determined by audit	Sample size of 100% of the entire CMDB based on the applicable data fields in which the County will select a random sampling and share with Vendor, which will include: 10% of the managed server assets, and 1% of managed desktop assets for verification, subject to agreed upon Asset Tracking and Management procedure. Vendor will notify County within thirty (30) calendar days after the completion of audit that corrections have been made in the CMDB. Vendor's failure to notify County within thirty (30) calendar days after the completion of audit that corrections have been made in the CMDB shall result in an automatic failure of this SLR 20. See Asset Tracking Matrix tab for details on collection of asset attributes by RU.	98%	Quarterly	Quarterly	100 x (Total number of audited data elements that are accurate / Total number of audited data elements).	Asset Records	0%	8%	0%
IT Service Management and Life Cycle Management Tools		System availability of Vendor tools proposed in the delivery of all key ITIL processes and the Web Portal for real time display of system output. The SLRs should only apply to Vendor provided toolsets that provide real time and periodic reporting data and information on the in scope Vendor managed environment									
SLR 21	IT Service Management and Life Cycle Management Tools. (As per defined in Appendix 2A1)	System Availability	Per schedule for planned availability	99.90%	Monthly	Monthly	Availability(%) = 100% - Unavailability (%) Where Unavailability is defined as: [(Sum of Outage Duration) / (Scheduled Time)]% Scheduled Time = (Total possible time in Measurement Interval - Maintenance Window time)	Incident records, █ Records	0%	0%	0%
End User Scheduled Survey		Vendor shall establish a mutually agreed upon End User satisfaction survey, that may be facilitated by a Third Party and designed with County and Vendor input. Vendor shall supply County semiannual reports of County End User satisfaction, integrating the results of ongoing End User satisfaction surveys for each IT Service Area. Upon delivery of each such report, the Parties shall meet to jointly identify any areas of End User dissatisfaction. The Vendor shall prepare a project plan with County's input and approval to Resolve End User dissatisfaction									
SLR 23	End User Scheduled Survey (conducted semi-annually)	End User Satisfaction	End Users surveyed should be very satisfied or satisfied	90%	Semi-annual	Semi-annual	TBD	County/Vendor Survey Matrix, Form and Process	0%	0%	8%

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SLR 23.1	End User Scheduled Survey (conducted semi-annually) (CSAT Response) - Initial response due by County/Vendor Working Session -fourth Thursday of March and September	End User Satisfaction	Per schedule	85%	Semi-annual	Semi-annual	$\text{InitMeets\%} = \frac{\text{IMetDeadline}}{\text{TRespReq}} - \frac{\text{InitFail\%}}{\text{TRespReq}}$	County Survey Template	8%	0%	0%
SLR 23.2	End User Scheduled Survey (conducted semi-annually) (CSAT Response) - Final response due by April 21st and October 21st	End User Satisfaction	Per schedule	100%	Semi-annual	Semi-annual	$\text{FinalMeets\%} = \frac{\text{FMetDeadline}}{\text{TRespReq}}$	County Survey Template	0%	8%	0%
SLR 24	County Program Management	Program Management Satisfaction	Those surveyed should be very satisfied or satisfied	90%	Semi-annual	Semi-annual	TBD	Vendor Corporate client satisfaction survey tool. Results to be compiled from meeting conducted with County CIO.	0%	0%	8%
Data Center Services											
System/Security Administration											
SLR 25 DC-01	Proposal for Security Remediation Following Discovery of Security Risk (e.g., timelines, deliverables, assumptions & constraints, comprehensive and complete written documentation)	Proposal Delivery	2 Business Days	95%	Monthly	Monthly	Number of events completed within performance target /events occurring during Measurement Interval	Records SLR measurement DC-01	0%	0%	0%
System Availability		System Availability is defined as the availability of in scope infrastructure components required to conduct the normal business operation of County Application systems at full functionality including mainframe and servers (e.g., server CPU, memory, internal storage, database), external storage, System Software and Vendor network connection. Availability will be measured based on the fully functional availability of each County Application (i.e., excludes application availability and other out-of-scope components as determined by Root Cause Analysis) to conduct the normal business operation by all End Users of the applicable County Application. NOTE: Notwithstanding any other provision of the Agreement, including but not limited to Section 4.9.4(c), the Parties agree that solely in regard to SLR 26 and SLR 27 below, (1) any changes to the SLR Fee Reduction Weighting Factor for SLR 26 and SLR 27 shall only be made by mutual written agreement of the Parties and (2) the Fee Reduction Weighting Factors for SLR 26 and SLR 27 will be established such that a singular Class 1 System Availability penalty will always be greater than a singular Class 2 System Availability penalty. Vendor shall not unreasonably withhold its consent to any modifications to the SLR Fee Reduction Weighting Factors for SLR 26 and SLR 27 proposed by the County. If the County and Vendor cannot agree on proposed modifications to the SLR Fee Reduction Weighting Factors for SLR 26 and SLR 27, that shall result in a Disagreement between the Parties which shall be addressed using the process described in Section 24 of the Agreement.									
SLR 26	System Availability Class 1-Mission Critical: Production Systems	System Availability	Per schedule for planned availability	99.9%	Monthly	Monthly	$\text{Availability(\%)} = 100\% - \text{Unavailability(\%)}$ Where Unavailability is defined as: $\frac{[(\text{Sum of Outage Duration}) / (\text{Scheduled Time})]\%}{\text{Scheduled Time} = (\text{Total possible time in Measurement Interval} - \text{Maintenance Window time})}$ For the purpose of calculating the System Availability SLR penalty amount, a prorated portion of the total penalty will be calculated based on the number of systems that failed to meet the SLR as compared to the total number of systems measured. See the System Availability SLR Calc tab for an example of the penalty calculation.	Incident records, Records	16%	14%	15%

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SLR 27	System Availability Class 2-Business Critical: Non-Production Systems (i.e. UAT, QA, Development, Test, Lab)	System Availability	Per schedule for planned availability	99.7%	Monthly	Monthly	$\text{Availability}(\%) = 100\% - \text{Unavailability}(\%)$ Where Unavailability is defined as: $\frac{[(\text{Sum of Outage Duration}) / (\text{Scheduled Time})]\%}{\text{Scheduled Time} = (\text{Total possible time in Measurement Interval} - \text{Maintenance Window time})}$ For the purpose of calculating the System Availability SLR penalty amount, a prorated portion of the total penalty will be calculated based on the number of systems that failed to meet the SLR as compared to the total number of systems measured. See the System Availability SLR Calc tab for an example of the penalty calculation.	Incident records; Records	7%	6%	7%
SLR 28	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	N/A	N/A	N/A
SLR 29	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	N/A	N/A	N/A
SLR 30	SAN	System Availability	Planned Availability	99.99%	Monthly	Monthly	$\text{Availability}(\%) = 100\% - \text{Unavailability}(\%)$ Where Unavailability is defined as: $\frac{[(\text{Sum of Outage Duration}) / (\text{Scheduled Time})]\%}{\text{Scheduled Time} = (\text{Total possible time in Measurement Interval} - \text{Maintenance Window time})}$	Incident Records	9%	6%	6%
Unscheduled Downtime											
SLR 31	NOTE: "County applications" are those production business applications which are operational on systems that Vendor supports.	Unscheduled downtime	Inability to conduct normal business operation due to unscheduled County Application downtime not to exceed 3 times per month, per County Application	100%	Monthly	Monthly	Number of unscheduled downtimes ≤ 3	Incident records	5%	5%	5%
Service Desk Notification											
SLR 32	Outages to County Service Desk	Online response time		99.9% 100%	Monthly	Monthly	Number of requests completed within performance target / total of all requests occurring during Measurement Interval	Incident Records	2%	2%	2%
Batch Processing											
Scheduled Production Batch for mainframe and jobs include system setup, execution and completion of normally scheduled production batch jobs. Demand and Test Batch: jobs include time for system setup and initiation of job execution for ad hoc requests, non standard, and non prescheduled batch jobs.											
SLR 33	Scheduled Production Batch	Per scheduled time	Complete core jobs per the County's approved schedule	99%	Monthly	Monthly	Complete core jobs per County's approved schedule	Scheduler details	3%	3%	3%
SLR 34 DC-10A DC-10B	Demand Production Batch	Per requested time	minutes to initiation minutes to initiation	95% 100%	Monthly	Monthly	Total number of jobs completed within performance target / total number of jobs executed during Measurement Interval	Records SLR measurement DC-10a, DC-10b	2%	2%	2%
SLR 35 DC-11A DC-11B	Demand Test Batch	Per requested time	minutes to initiation minutes to initiation	95% 100%	Monthly	Monthly	Total number of jobs completed within performance target / total number of jobs executed during Measurement Interval	Records SLR measurement DC-11a, DC-11b	0%	0%	0%
General Administrative											

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SLR 36 DC-12	Setup or Modify Job Scheduler Definition and Dependencies	Response time	Requests submitted by 3:00 pm will be incorporated into the current business day production cycle. Requests received after 3:00 pm will be worked as Best Efforts to include in the current business day production cycle; but not included in the SLR calculation.	98% Transaction Range Amount of Failures that Cause SLR Miss 0-25 >1 = 2 Failures cause a miss 26-50 >2 = 3 Failures cause a miss Monthly measurement with 51 or more Transactions will follow the 98% Minimum Performance calculation.	Monthly	Monthly	Number of requests completed within performance target /total of all requests occurring during Measurement Interval	Records SLR measurement DC-12	2%	2%	2%
SLR 37 DC-13	One Time Schedule Change for Existing Scheduled Jobs	Response time	Requests submitted by 3:00 pm will be incorporated into the current business day production cycle. Requests received after 3:00 pm will be worked as Best Efforts to include in the current business day production cycle; but not included in the SLR calculation.	98% Transaction Range Amount of Failures that Cause SLR Miss 0-25 >1 = 2 Failures cause a miss 26-50 >2 = 3 Failures cause a miss Monthly measurement with 51 or more Transactions will follow the 98% Minimum Performance calculation.	Monthly	Monthly	Number of requests completed within performance target /total of all requests occurring during Measurement Interval	Records SLR measurement DC-13	2%	2%	2%
Storage Administration for Mainframe and Servers											
SLR 38	Notification to Allocate Additional Storage Resources (based on pre defined parameters and observed growth patterns)	Proactive monitoring and reporting to the County of need to increase capacity	Total monthly storage capacity utilization measured in GBs used approaches 80% of installed capacity – Inform the County within 1 Business Day	99.0%	Monthly	Monthly	Number of requests/events completed within performance target /total of all requests/events occurring during Measurement Interval	ORT Reports weekly/monthly	2%	2%	2%
SLR 39 DC-15	On-demand Disk Storage Capacity Change Requests	Deployment time	Increases/decreases of +10% of installed storage capacity within 7 Business Days of the County request	99% Transaction Range Amount of Failures that Cause SLR Miss 0-25 >1 = 2 Failures cause a miss 26-50 >2 = 3 Failures cause a miss 51-75 >3 = 4 Failures cause a miss 76-100 >4 = 5 Failures cause a miss Monthly measurement with 101 or more Transactions will follow the 99% Minimum Performance calculation.	Monthly	Monthly	Number of requests/events completed within performance target /total of all requests/events occurring during Measurement Interval	Records SLR DC-15	2%	2%	2%
SLR 40 DC-16	Storage Administration Requests	Deployment time	Perform within one Business Day subject to agreed upon Change Management procedures	99.0%	Monthly	Monthly	Number of requests/events completed within performance target /total of all requests/events occurring during Measurement Interval	Records SLR DC-16	1%	1%	1%
SLR 41	Capacity/Performance Trend Analysis and Reporting	Monthly measurement/ analysis and periodic notification on resource utilization and trends for critical system resources	On schedule delivery of monthly analysis reports and Interim reports on rapidly developing events and trends identification	99.0%	Monthly	Monthly	Number of requests/events completed within performance target /total of all requests/events occurring during Measurement Interval	ORT Reports weekly/monthly	2%	2%	2%
Database Administration											
SLR 42 DC-19A DC-19B	Instance Creation & Refresh	Elapsed time	Create = per defined project schedule, Refresh : like for like = 1 Business Day Refresh : non-like for like (e.g. source and destination environments being dissimilar, or other data conversion required) = Per defined project schedule	95% Transaction Range Amount of Failures that Cause SLR Miss 0-10 >1 = 2 Failures cause a miss 11-20 >2 = 3 Failures cause a miss Monthly measurement with 21 or more Transactions will follow the 95% Minimum Performance calculation.	Monthly	Monthly	Total number of events completed within performance target/total number of events scheduled, due or required	Records SLR measurement DC-19a, DC-19b	1%	1%	1%
SLR 43 DC-20A DC-20B DC-20C	Requests - Create User ID for DBAs, Grants, Revokes, Create Table Space, Data Definition Requests	Elapsed time	1-5 requests daily < 2 business hours; 6-10 requests daily < 4 business hours; > 10 daily < 2 business Days Based on a per database instance request	95% Transaction Range Amount of Failures that Cause SLR Miss 0-10 >1 = 2 Failures cause a miss 11-20 >2 = 3 Failures cause a miss Monthly measurement with 21 or more Transactions will follow the 95% Minimum Performance calculation.	Monthly	Monthly	Total number of events completed within performance target/total number of events scheduled, due or required	Records SLR measurement DC-20a, DC-20b, DC-20c	1%	1%	1%
SLR 44 DC-21	Schema Changes and Stored Procedures	Elapsed time	1 Business Day Based on a per database instance request	95%	Monthly	Monthly	Total number of events completed within performance target/total number of events scheduled, due or required	Records SLR measurement DC-21	0%	0%	0%

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SLR 45 DC-22	Performance Tuning and Maintenance	Elapsed time	Two (2) business hours to respond to ad-hoc requests, per mutually agreed tuning requirements	98% Transaction Range Amount of Failures that Cause SLR Miss 0-25 >1 = 2 Failures cause a miss 26-50 >2 = 3 Failures cause a miss Monthly measurement with 51 or more Transactions will follow the 98% Minimum Performance calculation.	Monthly	Monthly	Total number of events completed within performance target/total number of events scheduled, due or required	Records SLR measurement DC-22	1%	1%	1%
Server Administration											
SLR 47 DC-24	Provision Servers and Create OS	Time	< 5 Calendar Days from server delivery to implementation, subject to agreed upon Change Management procedures and defined project schedule	95% Transaction Range Amount of Failures that Cause SLR Miss 0-10 >1 = 2 Failures cause a miss 11-20 >2 = 3 Failures cause a miss Monthly measurement with 21 or more Transactions will follow the 95% Minimum Performance calculation.	Monthly	Monthly	Number of requests/events completed within performance target /total of all requests/events occurring during Measurement Interval	Records SLR measurement DC-24	2%	2%	2%
SLR 48 DC-25A DC-25B DC-25C		Time to provision		95% Transaction Range Amount of Failures that Cause SLR Miss 0-10 >1 = 2 Failures cause a miss 11-20 >2 = 3 Failures cause a miss Monthly measurement with 21 or more Transactions will follow the 95% Minimum Performance calculation.	Monthly	Monthly	Number of requests/events completed within performance target /total of all requests/events occurring during Measurement Interval	Records SLR measurement DC-25a, DC-25b, DC-25c	1%	1%	1%
SLR 49 DC-26	Server Administration Requests	Time to deploy	Perform within [redacted] subject to agreed upon Change Management procedures	99% Transaction Range Amount of Failures that Cause SLR Miss 0-25 >1 = 2 Failures cause a miss 26-50 >2 = 3 Failures cause a miss 51-75 >3 = 4 Failures cause a miss 76-100 >4 = 5 Failures cause a miss Monthly measurement with 101 or more Transactions will follow the 99% Minimum Performance calculation.	Monthly	Monthly	Number of requests/events completed within performance target /total of all requests/events occurring during Measurement Interval	Records SLR measurement DC-26	1%	1%	1%
SLR 50	Capacity/Performance Trend Analysis and Reporting	Schedule and Per Event	On schedule delivery of [redacted] analysis reports and Interim reports on rapidly developing events and trends identification	100%	Weekly	Monthly	Number of requests/events completed within performance target /total of all requests/events occurring during Measurement Interval	ORT Reports weekly/monthly	2%	2%	2%
Service Level Requirements											
SLR 51		Delivery of [redacted]	[redacted]	100%	Daily	Monthly	[redacted] and Delivered	access db records and delivery	0%	0%	0%
IT Continuity and Disaster Recovery											
Time to recover County Application systems (as defined in the DR plan) after DR Incident has been determined. See Appendix 2B.4- System Classifications for Availability and Disaster Recovery SLRs											
SLR 52	Application Recovery Ranking 1	Time to recover	[redacted]	100%	Following a declared DR event	Following a declared DR event	Number of applications and related infrastructure (e.g. network) required to provide normal business function recovered within performance target/total number of applications in Measurement Interval	Incident Records	2%	2%	1%
SLR 53	Application Recovery Ranking 2	Time to recover	[redacted]	100%	Following a declared DR event	Following a declared DR event	Number of applications and related infrastructure (e.g. network) required to provide normal business function recovered within performance target/total number of applications in Measurement Interval	Incident Records	1%	1%	0%
SLR 54	Application Recovery Ranking 3	Time to recover	[redacted]	100%	Following a declared DR event	Following a declared DR event	Number of applications and related infrastructure (e.g. network) required to provide normal business function recovered within performance target/total number of applications in Measurement Interval	Incident Records	0%	0%	0%

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SLR 55	Application Recovery Ranking 4	Time to recover	██████████	100%	Following a declared DR event	Following a declared DR event	Number of applications and related infrastructure (e.g. network) required to provide normal business function recovered within performance target/total number of applications in Measurement Interval	██████████ Incident Records	0%	0%	0%
SLR 56	Application Recovery Ranking 5	Time to recover	██████████	100%	Following a declared DR event	Following a declared DR event	Number of applications and related infrastructure (e.g. network) required to provide normal business function recovered within performance target/total number of applications in Measurement Interval	██████████ Incident Records	0%	0%	0%
DR Testing											
SLR 59	DR Testing	Successful DR test	Successful annual test of each DR for each County Application	100%	Annual	Annual	Number of tests completed within performance target /total of all tests occurring during Measurement Interval	DR test plan, post test report	0%	0%	3%
Service Desk											
Service Desk Availability		Service Desk Availability refers to the required timeframes during which certain Services provided by the Service Desk must be available to End Users, and response to automatically generated Service Desk Trouble Tickets is achieved.									
SLR 60	1) Dedicated Service Desk 2) After Hours Shared Service Desk (pager) and Self Help Support 3) County 411 Shared Service Desk	Schedule	1) ██████████ 2) ██████████ 3) ██████████	1) 99.99% 2) 99.99% 3) 99.99%	Monthly	Monthly	Availability(%) = 100% - Unavailability (%) Where Unavailability is defined as: ((Sum of Outage Duration) / (Scheduled Time))% Scheduled Time = (Total possible time in Measurement Interval - Maintenance Window time)	Outage Records from ██████████	8%	7%	5%
Response Time											
		The Vendor will provide United States toll-free telephone lines in adequate quantity to handle Call volume, ACD system(s) to record Call date, time and duration information, and electronic interfaces to all systems for monitoring and reporting.									
SLR 61	Notification of Incident or Problem to County and Third Party providers	Time to notify	≤ 5 minutes from generation of Help Desk Trouble Ticket	95%	Monthly	Monthly	Number of events per event type within performance target / total number of events per type during Measurement Interval = percent (%) attained	██████████ Problem Records	0%	0%	0%
SLR 62	Average Speed to Answer	Phone response time	1) For dedicated Service Desk support hours: ██████████ 2) For 411 Service Desk hours: ██████████	100%	Monthly	Monthly	Number of events per event type within performance target / total number of events per type during Measurement Interval = percent (%) attained	ACD/IRD	2%	2%	1%
SLR 63	Call Abandonment Rate after 15 seconds	Phone response time	≤6%	100%	Monthly	Monthly	Number of events per event type within performance target / total number of events per type during Measurement Interval = percent (%) attained	ACD/IRD	1%	1%	1%
SLR 64	Automated E-mail Acknowledgement	Online acknowledgement time	≤ 5 minutes	98%	Monthly	Monthly	Number of events per event type within performance target / total number of events per type during Measurement Interval = percent (%) attained	██████████ Worklog records	0%	0%	0%
Incident Resolution											
SLR 65 SD-06	First Contact Resolution-(escalation to Level 2 does not qualify as being resolved)	First Contact Resolution percentage	70% of Service Desk resolvable calls, with <5% recalls	N/A	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	██████████ Records SLR measurement SD-06	6%	5%	5%
SLR 66 SD-07	Level 1 Time to Resolution (escalation to Level 2 does not qualify as being resolved)	Elapsed time	██████████	95%	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	██████████ Records SLR measurement SD-07	1%	1%	1%

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SLR #	SLR	Service Measure	Performance Target	Minimum Performance	Measurement Interval	Reporting Period	Formula	Measurement Tool	Weighting Factor Monthly SLR's March, May, June, September, November and December	Weighting Factor Monthly and Quarterly SLR's January, April, July and	Weighting Factor Monthly, Semi- Annual and Annual February and August
SLR 67	Incident Closure Notice (via e-mail and/or phone)	Elapsed time	[REDACTED]	98%	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	[REDACTED] Records	0%	0%	0%
End User Account Administration											
SLR 68 SD-09	New End User Account (up to 5 per request)	Elapsed time	Completed within [REDACTED] of authorized request	99% Transaction Range Amount of Failures that Cause SLR Miss 0-25 >1 = 2 Failures cause a miss 26-50 >2 = 3 Failures cause a miss 51-75 >3 = 4 Failures cause a miss 76-100 >4 = 5 Failures cause a miss Monthly measurement with 101 or more Transactions will follow the 99% Minimum Performance calculation	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	[REDACTED] Records SLR measurement SD-09	1%	1%	1%
SLR 69 SD-10	New End User Account (6-20 per request)	Elapsed time	Completed within [REDACTED] of authorized request	99%	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	[REDACTED] Records SLR measurement SD-10	0%	0%	0%
SLR 70 SD-11	New End User Account (21+ per request)	Elapsed time	Case by case	N/A	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	[REDACTED] Records SLR measurement SD-11	0%	0%	0%
SLR 71 SD-12	[REDACTED]	Elapsed time	[REDACTED]	95%	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	[REDACTED] Records SLR measurement SD-12	2%	2%	2%
SLR 72 SD-13	[REDACTED]	Elapsed time	[REDACTED]	95%	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	[REDACTED] Records SLR measurement SD-13	0%	0%	0%
SLR 73 SD-14	[REDACTED] (Emergency request submitted by authorized OCIT Manager)	Elapsed time	[REDACTED]	99%	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	[REDACTED] Records SLR measurement SD-14	6%	4%	4%
SLR 74 SD-15	[REDACTED]	Elapsed time	[REDACTED]	99.9%	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	[REDACTED] Records SLR measurement SD-15	0%	0%	0%
Vendor Access to County Facility and Network											
Within [REDACTED] after the [REDACTED] of each [REDACTED], Vendor shall provide a report of all personnel approved by the County for delivery of Services pursuant to the Agreement in accordance with the process specified in the Policies, Standards and Procedures Manual, to measure Vendor's compliance with the following SLRs pertaining to the accuracy of Vendor's staff, which includes staff of Vendor's subcontractors, accessing County data center and network. Accuracy of data shall adhere to the following SLRs.											
SLR 74.1 SD-16	Vendor Staff Physical Access to [REDACTED] per County [REDACTED]	Accuracy as determined by audit	Sample size of 100% of the active [REDACTED] entries for Vendor Personnel as compared to the Vendor Staff Master File of employees actively approved for the delivery of services.	100.0%	Quarterly	Quarterly	Number of employees where access is determined to be correct / total number of employees	Manual comparison of [REDACTED] entries to Vendor Staff Master File - Comparison to be performed by County	0%	2%	0%
SLR 74.2 SD-17	Vendor Staff Logical Access to County Network by means of [REDACTED]	Accuracy as determined by audit	Sample size of 100% of the OCIT Enterprise [REDACTED] accounts (managed by Vendor) for Vendor Personnel as compared to the Vendor Staff Master File of employees actively approved for the delivery of services.	100.0%	Quarterly	Quarterly	Number of employees where access is determined to be correct / total number of employees	Manual comparison of [REDACTED] entries to Vendor Staff Master File - Comparison to be performed by County	0%	2%	0%
Client Satisfaction											
SLR 75	Periodic Customer Satisfaction	Satisfaction rate	End Users surveyed should be very satisfied or satisfied, based on a 10% survey response rate of all incident/service request Tickets closed in the Reporting Period	90%	Periodic Customer Satisfaction - Measure Monthly based on closed incident/service request Tickets in same monthly period	Monthly	Sum of survey results from each participant/total number of participants responding to periodic sample	Combination of [REDACTED] automated Satisfaction Survey and [REDACTED] automated survey tools.	1%	1%	1%
Application Development and Maintenance											
Application Development SLRs											

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SLR #	SLR	Service Measure	Performance Target	Minimum Performance	Measurement Interval	Reporting Period	Formula	Measurement Tool	Weighting Factor Monthly SLR's March, May, June, September, November and December	Weighting Factor Monthly and Quarterly SLR's January, April, July and	Weighting Factor Monthly, Semi- Annual and Annual February and August
SLR 76	Project Estimation Methods and Tools Used for Cost and Schedule	Target	100% of Projects	100%	Monitor Continuously, Measure Monthly	Monthly	Performance = Number of transactions completed within required time/Total number of transactions	Records and Project ORT Reports	1%	1%	1%
SLR 77	Project Estimation (actual cost vs. estimated cost)	Target Cost	Actual Estimate	Actual - Not more than +/- 10% of estimate	Monitor Continuously, Measure Upon Project Completion	Monthly	Performance = Number of transactions completed within required time/Total number of transactions	Records and Project ORT Reports	1%	1%	1%
SLR 78 ITSM-01	Service Requests	Target Time	Deliver proposal within target time	95%	Monitor Continuously, Measure Monthly	Monthly	Performance = Number of transactions completed within required time/Total number of transactions	Records SLR ITSM-01	0%	0%	0%
SLR 79	Milestone Completion – Milestones on the Critical Path	Completion Date	Completion of milestones by scheduled completion date	100%	Monitor Continuously, Measure Monthly	Monthly	Performance = Number of transactions completed within required time/Total number of transactions	Records and Project ORT Reports	2%	2%	2%
SLR 80	Milestone Completion – All Milestones NOT on the Critical Path	Completion Date	Completion of milestones by scheduled completion date	95%	Monitor Continuously, Measure Monthly	Monthly	Performance = Number of transactions completed within required time/Total number of transactions	Records and Project ORT Reports	0%	0%	0%
SLR 81	Functional Requirements Met	Scale-based Opinion Survey	4.5 or higher on a 5.0 point scale	95%	Project Completion	Monthly	Performance = Number of transactions completed within required time/Total number of transactions	Records and Project ORT Reports	0%	0%	0%
SLR 82	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	N/A	N/A	N/A
Application Maintenance/Minor Enhancement SLRs											
SLR 83 ADM-08	Service Requests (Minor Enhancements)	Delivery Reply	Deliver proposal within target time	<10 Business Days 98%	Monitor Continuously, Measure Monthly	Monthly	Performance = Number of transactions completed within required time/Total number of transactions	Records SLR ADM-08	0%	0%	0%
SLR 84 ADM-08	Service Request Milestone Completion (Minor Enhancements)	Completion Date	Completion of milestones by scheduled completion date	100%	Monitor Continuously, Measure Monthly	Monthly	Performance = Number of transactions completed within required time/Total number of transactions	Records SLR ADM-08	0%	0%	0%
SLR 85	Service Requests Performance (Minor Enhancements)	Actual vs. Estimated Hours	< 10% of estimate or 15 hours over estimate, whichever is larger	95%	Monitor Continuously, Measure Monthly	Monthly	Performance = Number of transactions completed within required time/Total number of transactions	Records and Work Order Reports	0%	0%	0%
SLR 86 ADM-08	Availability of Qualified Staff	Availability	As defined by the County application requirements	100%	Monitor Continuously, Measure Monthly	Monthly	TBD	Records SLR ADM-08	0%	0%	0%
SLR 87 ADM-12	Quality	Rework Rate	Less than 1 rework instance per 20 changes into production	99%	Monitor Continuously, Measure Monthly	Monthly	TBD	SLR ADM-12	0%	0%	0%
Desktop Support Services											
IMACS											
SLR 88 DS-02	1-10 in a single request	Elapsed time to deploy	Within 3 Business Days of request	95% Transaction Range Amount of Failures that Cause SLR Miss 0-10 >1 = 2 Failures cause a miss 11-20 >2 = 3 Failures cause a miss Monthly measurement with 21 or more Transactions will follow the 95% Minimum Performance calculation.	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	Records SLR measurement DS-02	2%	2%	2%
SLR 89 DS-03	11-20 in a single request	Date and time scheduled	As agreed case by case, but no later than 4 Business Days	95%	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	Records SLR measurement DS-03	1%	1%	1%
SLR 90 DS-04	> 20 in a single request	Date and time scheduled	As agreed case by case	95%	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	Records SLR measurement DS-04	0%	0%	0%
SLR 91 DS-05	Urgent request, single move (e.g. unanticipated personnel change)	Elapsed time to deploy	Per agreed schedule, but no later than 1 Business Day	95%	Monthly	Monthly	Number of instances within performance target / total number of instances during Measurement Interval = percent (%) attained	Records SLR measurement DS-05	2%	2%	2%
General											
Personnel Continuity											

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SLR #	SLR	Service Measure	Performance Target	Minimum Performance	Measurement Interval	Reporting Period	Formula	Measurement Tool	Weighting Factor Monthly SLR's March, May, June, September, November and December	Weighting Factor Monthly and Quarterly SLR's January, April, July and August	Weighting Factor Monthly, Semi- Annual and Annual February and August
SLR 92	Vendor Personnel Continuity (Minimum Twelve (12) Months)	Length of retention of Vendor Personnel	85% of the Vendor Personnel assigned to the Agreement will remain on the County account for at least twelve (12) months. Each member of Vendor Personnel is measured individually, subject to County Approval of any exception. The measurement of the retention period for Vendor Personnel will commence as of the later of the Reference Date or the day the Vendor Personnel transfers into the County account and continues until such Vendor Personnel exits the County account.	85%	Quarterly	Quarterly	((Total number of Vendor Personnel in a quarter minus the number of Supplier Personnel assigned who leave the County account with less than twelve (12) months of service on the County account in the same quarter), divided by the total number of Supplier Personnel assigned to the Agreement in the same quarter), multiplied by 100.		N/A	2%	N/A
									190%	190%	190%

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Incident Priority Definitions

PRIORITY MATRIX		IMPACT		
		High	Medium	Low
U R G E N C Y	High	Priority 0/1	Priority 2	Priority 3
	Medium	Priority 2	Priority 3	Priority 4
	Low	Priority 3	Priority 4	Service Request

"Priority levels" are defined categories that identify the degree of business criticality and importance to the organization (the "business impact") of specific Incidents, and the associated Vendor response requirements attributed to any such Incident. The following priority level table categories and descriptions apply to all Services:

1 - Emergency/Urgent	The Incident or Problem has caused a complete and immediate work stoppage affecting a primary business process or a broad group of End Users such as an entire department, floor, branch, line of business, or external customer. No Workaround is available. Examples: Major application Problem (e.g., [REDACTED], [REDACTED]) Severe Problem during critical periods (e.g., month-end processing) Security Violation (e.g., denial of service, widespread virus) Critical Systems (e.g., voice, network) VIP Incidents
2 - High	A business process is affected in such a way that business functions are severely degraded, multiple End Users are impacted or a key customer is affected. A Workaround may be available; however the Workaround is not easily sustainable. Examples: Major application (e.g., [REDACTED], [REDACTED], [REDACTED])
3 - Medium	A business process is affected in such a way that certain functions are unavailable to End Users or a system and/or service is degraded. A Workaround may be available. Examples: Personal productivity Problem (e.g., File/Print, PDA) Redundant system problem
4 - Low	An Incident that has little impact on normal business processes and can be handled on a scheduled basis. A Workaround is available. Examples: Preventative Maintenance

Appendix 4.1 to Schedule 4
 Service Level Requirements and Fee Reduction Weighting Factors
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Key Performance Indicators

Key Performance Indicator (KPI) Description	KPI Service Measure	KPI Performance Target	KPI Minimum Performance	KPI Measurement Interval	KPI Reporting Period		KPI Measurement Tool
Data Center Services							
Internet Web Application Monthly Deployments	Internet Web Application Monthly Deployments is defined as conducting County coded application deployments in QA/production environment.						

Appendix 4.1 to Schedule 4
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Vendor and the County have agreed to formally document the specific details of how the survey process must be conducted. Please find attached the most recent CSAT Procedure, CSAT Project Plan, Service Providers Matrix and the survey form, which can be found on the County SharePoint site.

[Link to County SharePoint site.](#)

The following tenants (WHAT, HOW and WHO) and the attachments represent the agreement:

1. WHAT survey form will be used

- a. The mutually agreed to survey forms must be used
- b. The attached forms represent the most recent final versions mutually agreed to between County and Vendor also incorporating the simplified, higher level view across each service area

2. HOW the survey will be conducted

- a. The survey must be administered by the agreed upon OCIT managers as denoted in columns C & D of the attached *Service Providers Matrix Jan_June 2023 FINAL.xls*
- b. One (1) overall score per department must be provided for each of the four (4) Service areas: Desktop, Data Center, Applications, and Service Desk, for those departments surveyed.
- c. One (1) total overall score must be provided using a scoring range of 1 to 5 representing Very Dissatisfied-1, Somewhat Dissatisfied-2, Satisfied-3, Somewhat More Satisfied-4, Very Satisfied-5.
- d. The average of the total overall scores must be calculated from ALL participating departments of the 27 departments as listed on the *Service Providers Matrix Jan_June 2023 FINAL.xls*) and will be used to calculate the contractual Service Level Requirement (SLR) where a score of Satisfied-3 or better represents an SLR PASS.

3. WHO must provide survey feedback and WHO must administer the survey

- a. The survey shall be conducted with the department's point of contact(s) (i.e., supervisor, manager and/or director), as denoted in columns E & F of the attached *Service Providers Matrix Jan_June 2023 FINAL.xls* , and with the department's key business personnel.
- b. For departments supported by OCIT SS, key department business personnel must be surveyed also as denoted in columns E & F of the attached *Service Providers Matrix Jan_June 2023 FINAL.xls*

CSAT Response SLRs

There are two calculations:

1. The initial response due by OCIT/SAIC Working Session-fourth Thursday of March and September
 - a. DDAS: SLR 23.1
 - b. NVS: SLR 24.1
2. The final response due by April 21st and October 21st
 - a. DDAS: SLR 23.2
 - b. NVS: SLR 24.2

Variables and Calculations definitions

Base number for subsequent calculations is the total number of actionable responses for the survey period. This will be totaled by the person doing the survey analysis, OCIT, and will be reflected by abbreviation **TRespReq**.

1. Initial Deadline

Initial deadline to turn in responses can be broken down into those that meet the deadline and those that don't. Importance is on those that meet.

Abbreviations:

- **IMetDeadline** = those responses turned in before the initial deadline
- **INotMetDeadline** = those responses that did not meet the initial deadline
- **InitMeets%** = the percentage calculated by the number of responses meeting the deadline divided by the total number of responses requested (TRespReq)
- **InitFail%** = the percentage calculated by the number of responses that DID NOT meet the deadline divided by the total number of responses requested (TRespReq)

Calculations are:

$$\text{InitMeets\%} = \text{IMetDeadline} / \text{TRespReq}$$
$$\text{InitFail\%} = \text{INotMetDeadline} / \text{TRespReq}$$

2. Final Deadline

Final calculations are the same as above except the deadline is different

Abbreviations:

- **FMetDeadline** = those responses turned in before the final deadline
- **FNotMetDeadline** = those responses that did not meet the final deadline
- **FinalMeets%** = the percentage calculated by the number of responses meeting the deadline divided by the total number of responses requested (TRespReq)
- **FinalFail%** = the percentage calculated by the number of responses that DID NOT meet the deadline divided by the total number of responses requested (TRespReq)

Calculations are:

$$\text{FinalMeets\%} = \text{FMetDeadline} / \text{TRespReq}$$
$$\text{FinalFail\%} = \text{FNotMetDeadline} / \text{TRespReq}$$

The significant calculations are **InitMeets%** and **FinalMeets%**.

Must meet **85% for the Initial responses** and **100% for the Final responses** to pass the SLR

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Asset Tracking and Management Matrix			
		Desktop Asset	Server Asset
1	Serial Number	√	√
2	Location (Site Address, City, State)	√	√
3	Floor	√	N/A
4	Office / Cube (Room)	√	N/A
5	Agency	√	√
6	Manufacturer (Make)	√	√
7	Model Name	√	√
8	IP Address	N/A	√
9	Operating System (Software/Firmware Version)	√	√
10	DNS Host Name	N/A	√
11	Criticality Level	N/A	√
12	Service Level, Status and Resource Unit (CI Billable)	√	√
13	Cost Center (Accounting Code)	√	√
14	Resource Unit (Budget Code (RU Description))	√	√
15	Agency (Asset Ownership)	√	√
16	Fixed Aset, Fixed Aset Tag *	√	√
17	Equipment Received Date*	√	√
18	Warranty Expiration Date*	√	√

* Vendor will load data the County provides for this attribute under best efforts approach, where applicable. The presence/absence of this data will NOT be factored into the SLR calculation.

ATTACHMENT K
APPROVED SUBCONTRACTORS – REVISION 5
FOR
COUNTY

ATTACHMENT K

APPROVED SUBCONTRACTORS

No.	Subcontractor Name	Service(s)
1.	11:11 Systems	Disaster recovery and business recovery center
2.	Ark Technologies	Staff augmentation
3.	AT&T Inc.	Disaster recovery circuits
4.	BMC Software, Inc.	██████████ software
5.	Burwood Group, Inc.	Project management services
6.	Cerith Consulting, Inc.	Business consulting
7.	E911 Helpline, Inc.	Application support and staff augmentation
8.	EZCloud Solutions LLC	Staff Augmentation
9.	Iconsoft, Inc.	Staff augmentation
10.	Microsoft Corporation	Premier agreement for services and personal computers
11.	SR2K Inc.	██████████ staffing
12.	Sycomp, A Technology Company	██████████ environment support
13.	Talent 9, Inc.	Staff augmentation
14.	Winkle Systems	Staff augmentation

ATTACHMENT L
REVISION 3
REPORTS
for
COUNTY

EXHIBIT L
REPORTS

This is Exhibit L (Reports) to the Agreement between the County of Orange, CA (“County”) and Vendor.

Vendor shall provide reports on the Services as specified in Tables 1 through 3 below. Reports will be provided on the County-provided portal.

Table 1. Information Technology Infrastructure Library (ITIL) Reports

Report Title	Report Section(s)	Frequency	Report Description
Asset Management Report	Asset Management Activity Summary	Monthly	This report identifies asset status changes (e.g., end of life, spare, operational) made in the past month. This report is accessible on the County of Orange web portal.
	Asset Management Back Order	Monthly	This report list authorized purchases in back-order status. The report is accessible on the County of Orange web portal.
Change Management Report	Forward Schedule of Change Calendar	Weekly	This report shows RFCs to be implemented in next 7 days. This is available on the County of Orange web portal.
	Scheduled and Implemented Change Report (All Service Areas)	Weekly	This report shows all change board-approved and scheduled changes for the week to come and all implemented changes for the preceding week. This is available on the County of Orange web portal.
Incident and Problem Report	Incident and Problem Activity and Resolution (all Service Areas)	Bi-Weekly	The report provides rollup of group, category, and type and item queues for incidents, including Open 1-Critical and 2-High priority Incidents, Open Incidents by SLA status, Open tickets by status and age.
	Monthly Incident Summary Report (All Service Areas)	Monthly	This report provides incident and problem summaries. This report will be accessible on the County of Orange web portal.
	RCA Summary Report	Monthly	This report includes an assessment of Priority Level 1 and 2 incidents, describes key attributes of the event, including ticket information, event description, cause of incident, impact of incident, method of incident resolution, and residual actions required to close out ticket. The County uses the RCA Summary Report to fully understand events and event resolutions and to provide historical information that the service delivery team can use to deal with future events.
Service Request Status and Trending Report	Application Service Area	Monthly	This report will include all Service Requests submitted and executed within a reporting month.
	Data Center Service Area	Monthly	This report will include all Service Requests submitted and executed within a reporting month.
	Desktop Service Area	Monthly	This report will include all Service Requests submitted and executed within a reporting month.
	Network Service Area	Monthly	This report will include all Service Requests submitted and executed within a reporting month.
	Voice Service Area	Monthly	This report will include all Service Requests submitted and executed within a reporting month.
Software License Compliance Report	Application Service Area	Bi-annually	This report will assist with the software license compliance.
	Data Center Service Area	Bi-annually	This report will assist with the software license compliance.
	Desktop Service Area	Bi-annually	This report will assist with the software license compliance.
Patch and Anti-virus Report	Application Service Area	Quarterly	This report will assist with the validation of patch application and anti-virus updates.

Report Title	Report Section(s)	Frequency	Report Description
	Data Center Service Area	Quarterly	This report will assist with the validation of patch application and anti-virus updates.
	Desktop Service Area	Quarterly	This report will assist with the validation of patch application and anti-virus updates.
System Software Refresh and Updates Report	SLR 2, 3, 4, & 5 – Desktop/Laptop Endpoints	Monthly	<p>This report will measure the performance of Updating and/or applying Updates to Endpoints within the defined category. A successful completion is when a Patch and/or Update is deployed and applied to an Endpoint. This report shall include, but not be limited to, the following:</p> <ol style="list-style-type: none"> 1. Total number and a list of the <u>Active Endpoints</u> managed/supported, including the following details: <ol style="list-style-type: none"> a. Operating system (OS) release, device name, device type (laptop or desktop), compliance percentage by department/domain, and overall SLR compliance b. Total number of Packages deployed c. Total number of Patches in a Package d. List of Patches deployed per Package e. Total number of Packages successfully installed to an Active Endpoint f. Total number of Packages that encountered an error. 2. Total number and a list of the <u>Active/Error Endpoints</u>, including the following details: <ol style="list-style-type: none"> a. Identify the Endpoint issues that were resolved and Updated, including supporting ticket number, OS release, device name, device type (laptop or desktop), and department/domain b. Identify the Endpoint issues that could not be resolved within the reporting period, including supporting ticket number, OS release, device name, device type (laptop or desktop), and department/domain 3. Total number and a list of the <u>Inactive Endpoints</u>, including the following details: <ol style="list-style-type: none"> a. OS release, device name, device type (laptop or desktop), department/domain, and the supporting ticket number for analyzing why devices are Inactive.

Report Title	Report Section(s)	Frequency	Report Description
	SLR 3.1 – Servers	Monthly	<p>This report will measure the performance of updating or applying updates to endpoints within the defined category. A successful completion is when a Patch and/or Update is deployed and applied to an Endpoint. This report shall include, but not be limited to, the following:</p> <ol style="list-style-type: none"> 1. Total number and a list of the <u>Active Endpoints</u> managed/supported, including the following details: <ol style="list-style-type: none"> a. Operating system, device name, compliance percentage by department/domain, and overall SLR compliance b. Total number of Packages deployed c. Total number of Patches in a Package d. List of Patches deployed per Package e. Total number of Packages successfully installed to an Active Endpoint f. Total number of Packages that encountered an error. 2. Total number and a list of the <u>Active/Error Endpoints</u>, including the following details: <ol style="list-style-type: none"> a. Identify the Endpoint issues that were resolved and updated, including supporting ticket number, OS, device name, and department/domain b. Identify the Endpoint issues that could not be resolved within the reporting period, including supporting ticket number, OS, device name, and department/domain 3. Total number and a list of the <u>Inactive Endpoints</u>, including the following details: <ol style="list-style-type: none"> a. Operating System, device name and department/domain

Table 2. Project Management Office (PMO) Reports

Report Title	Report Section(s)	Frequency	Report Description
Account Performance Report	Governance - Executive Steering Committee Report	Semi-Annually	This report will be used to facilitate the Executive Steering Committee meetings; which will focus on reviewing progress, customer satisfaction, special projects status, and overall continuous service improvement successes.
	Governance - Management Review Committee (MRC) Report	Monthly	This report will be used to facilitate the Management Review Committee (MRC) meetings; which will focus on status of the Program, review risks, and planned mitigations; maintaining an open channel of communications between the County and SAIC; and beginning/continuing the process of building a long-term relationship.
	Governance - Operations Review Team (ORT) Report	Weekly	This report will be used to facilitate the Operations Review Team (ORT) meetings, with agendas, designation of the meetings lead, locations, time windows, topics, individuals we assign to address the topics and expected outcomes, identified necessary preparatory work and published meeting minutes and documented actions items.
	Monthly PMO Summary	Monthly	This report provides a monthly executive summary view of the overall service delivery performance status, followed by a summary of service delivery activities during the previous month across all delivery areas. It comprises the monthly dashboard report and attachments for incident and problem activity and resolutions; RCAs; SLR performance; and status of key issues, problems, and actions. This monthly report is available on the County of Orange web portal.
Monthly Invoice Report	Asset Management Summary Report	Monthly	This report lists authorized purchases made in the past month. This report is accessible on the County of Orange web portal.
	Chargeback Report	Monthly	This report will be used in combination with the Monthly Bill/Invoice report to allow the County to use as a chargeback mechanism.
	Monthly Bill/Invoice	Monthly	The report constitutes the monthly invoice/bill, including resource units and rates, applicable ARCs and RRCs, authorized project expenses, procurements, and other directly billable expenses.
Project Summary Report	Project Performance	Monthly	This report will provide project performance information on all application projects, including metrics on schedule, budget and overall status.
	Work Order Summary	Monthly	This report is a summary by active Work Order (WO), which describes progress, schedule status, impacts, issues, and risks of active projects. It includes a stoplight indicator: green (on schedule, no critical issues), yellow (problems exist, but workarounds are defined), and red (major problems, no recovery plan available). This report is available on the County of Orange web portal.

Report Title	Report Section(s)	Frequency	Report Description
SLR Performance Report	SLR Performance (by Service Area)	Monthly	This report highlights the SLR performance per the County of Orange final contract SLR Schedules. It calculates performance by each service area, including cross-functional and PMO-provided services. It uses documented SLR calculation methodology and data collected and maintained predominantly within the ticketing system.
TR&R Activity Report	TR&R Activity Report	Annual	This report provides information on planned technology refreshment and replenishment for the reporting period, including desktop and local servers, Data Center, and network service areas.

Table 3. Service Area Reports

Report Title	Report Section(s)	Frequency	Report Description
Application Performance Report	"Top Ten" Application Incidents	Monthly	This report will show the "Top 10" incidents reported in the Application Service Area for the given time period.
Data Center - Backup Report	Backup Schedule and Backups Performed	Weekly	This report will display the success or failure on the backups for supported servers and the amount of backed up data.
Data Center Performance Report	Availability and Performance Report	Weekly	This report will display collected and analyzed availability and performance data, trend analysis and recommendations, including the following: <ul style="list-style-type: none"> * Availability will be reported as percent time available excluding planned maintenance windows. * Performance information is captured and reported for resource use and typical examples include memory, CPU, disk, disk use, and response rate.
	Capacity Status and Trending Report	Monthly	This report will display collected and analyzed capacity data, trend analysis and recommendations, including the following: <ul style="list-style-type: none"> * CPU use * Disk use * Disk space * Memory usage * Page files * Pages
	Systems Management Report	Weekly	This report will display collected and analyzed systems server performance data, trend analysis and recommendations, including the following: <ul style="list-style-type: none"> * CPU use * Disk use * Disk space * Memory usage * Page files * Pages
System Maintenance Activity Report	Application Maintenance	Monthly	This report highlights the maintenance activity within the Application Service Area.
	Data Center Maintenance	Monthly	This report highlights the maintenance activity within The Data Center Service Area.
	Desktop Maintenance	Monthly	This report highlights the maintenance activity within the Desktop Service Area.
	Service Desk Maintenance	Monthly	This report highlights the maintenance activity within the Service Desk Service Area.

Report Title	Report Section(s)	Frequency	Report Description
Security Events and Response Summary		Monthly	
Service Desk Performance Report	Call escalation Report	Monthly	This report will show the number of tickets and open or closed tickets that were escalated to second- and third- level support.
	Call Volume Analysis Report	Monthly	This report will provide call ticket and volume information to allow for identification of trends or changes in the County's business.

ATTACHMENT Q (DEFINITIONS) – REVISION 3
TO THE
MASTER SERVICES AGREEMENT FOR IT SERVICES

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ATTACHMENT Q**DEFINITIONS**

This Attachment Q (Definitions) is an attachment and addition to the IT Services Agreement by and between the County of Orange and Science Applications International Corporation, effective as of the Effective Date of Amendment 15 to the Agreement, and is incorporated into the Agreement by reference hereof. This Attachment contains defined terms that are used throughout the Agreement, Schedules, Attachments, Appendices, or other documents incorporated herein by reference.

1. **ACCEPTANCE**

“Acceptance” shall have the meaning set forth in Section 8.1 of the Agreement.

2. **ACCEPTANCE CRITERIA**

“Acceptance Criteria” shall have the meaning set forth in Section 8.1 of the Agreement.

3. **ACCEPTANCE TEST PROCEDURES**

“Acceptance Test Procedures” means, collectively, the acceptance test procedures for the item being tested set forth or referenced in this Agreement or any Schedules hereto, or such other procedures and standards mutually agreed upon by the Parties in writing.

4. **ACCEPTANCE TESTING PERIOD**

“Acceptance Testing Period” shall have the meaning set forth in Section 8.1 of the Agreement.

5. **ACTIVE ENDPOINT**

“Active Endpoint” means any Vendor managed device that is reachable and has checked into the County’s current Patch management System within seven (7) calendar days of a Patch(es)/or Update(s) being deployed.

6. **ACTIVE/ERROR ENDPOINT**

“Active/Error Endpoint” means any Active Endpoint that is reachable and has failed to install a Package properly and requires remediation before the next Patch cycle.

7. **AFFILIATE**

“Affiliate” means, as to entity, any Person that, directly or indirectly, controls, is controlled by, or is under common control with, such entity, whether through ownership of voting securities or otherwise. For the purposes of the County, “Affiliate” includes all entities governed by County’s Board of Supervisors.

8. AGREEMENT

“**Agreement**” means this Master Services Agreement for IT Services between the County and Vendor, as amended from time to time, including these terms and conditions, and all Schedules, Attachments, Appendices, or other documents incorporated herein by reference.

9. AGREEMENT QUARTER

“**Agreement Quarter**” means each successive three-month period beginning on the first Service Commencement Date.

10. AGREEMENT YEAR

“**Agreement Year**” means, subject to Section 14 (Term and Termination) of the Agreement) the period from the Effective Date of Amendment 15 to the Agreement to 11:59 PM, Pacific Standard Time on June 30, 2022. Thereafter, “Agreement Year” shall mean each one year period thereafter (i.e., July 1st of the then current calendar year to June 30th of the next calendar year.)

11. AMERICANS WITH DISABILITIES ACT

“**Americans with Disabilities Act**” or “**ADA**” shall have the meaning set forth in Section 20.7 of the Agreement.

12. APPLICATION DEVELOPMENT AND MAINTENANCE FEES

“**Application Development and Maintenance Fees**” shall have the meaning set forth in Section 4 of Schedule 3.

13. APPROVE

“**Approve**” or “**Approval**” means, unless the action under this Agreement explicitly requires approval by the County’s Board of Supervisors, the written authorization by the CIO (or his or her designee) for any consent, authorization, or other approval required from County under this Agreement. Approval by the County’s Board of Supervisors means consent, authorization, or other approval that must be officially adopted by the County’s Board of Supervisors.

14. ASSET

“**Asset**” means equipment, hardware, Software, contracts, leases and other tangible items used in provision of the Services. Assets are considered in use as of the date of deployment.

15. ASSIGNED CONTRACTS

“**Assigned Contracts**” means the list of certain license, support, maintenance or other contracts for use in providing the Services for the benefit of County (and its Affiliates) that are formally transferred by County to Vendor such that Vendor shall become the contracting party in interest for such contracts.

16. ASSUME FINANCIAL RESPONSIBILITY

“**Assume financial responsibility**” shall have the meaning set forth in Section 4.2.6 of this Agreement.

17. AUDITORS

“**Auditors**” means a Party’s internal or independent auditors.

18. BENCHMARK

“**Benchmark**” shall have the meaning set forth in Section 1.C of Exhibit C (Benchmarking).

19. BENCHMARKER

“**Benchmarker**” shall have the meaning set forth in Section 1.A of Exhibit C (Benchmarking).

20. BENCHMARKING

“**Benchmarking**” shall have the meaning set forth in Section 1.C of Exhibit C (Benchmarking).

21. BENCHMARKING SERVICES(S) SET

“**Benchmarking Service(s) Set**” shall have the meaning set forth in Section 1.A of Exhibit C (Benchmarking).

22. BEST PRACTICES

“**Best Practices**” means those proven methods and techniques used by Vendor (regardless of whether such Best Practices are Vendor intellectual property) to deliver services similar to the Services across multiple clients of Vendor, that have shown results superior to those achieved by alternative means, including as such Best Practices are modified or replaced with improved methods and techniques from time to time during the Term. Vendor must deliver Services in accordance with the requirements of the Agreement and, additively, its Best Practices. In the event of a conflict between Vendor’s Best Practices and the requirements set forth in this Agreement, the requirements set forth in this Agreement shall control.

23. BLENDED HOURLY RATES

“**Blended Hourly Rates**” shall have the meaning set forth in Schedule 3.

24. BOARD

“**Board**” shall refer to the County of Orange Board of Supervisors.

25. BUSINESS DAY

“Business Day” means any day on which the County is open for business.

26. CIO

“CIO” means the Chief Information Officer of the County or his or her designee.

27. CLETS

“CLETS” shall have the meaning set forth in Section 20.9 of the Agreement.

28. CONDITIONAL ACCEPTANCE

“Conditional Acceptance” shall have the meaning set forth in Section 8.1 of the Agreement.

29. CONFIDENTIALITY AGREEMENT

“Confidentiality Agreement” means an agreement, in form and substance acceptable to the County under which such agents or Subcontractors agree to appropriately protect the County Confidential Information and to fulfill any other confidentiality obligations necessary to the performance of Vendor’s obligations hereunder.

30. CONFIDENTIAL INFORMATION

“Confidential Information” shall have the meaning set forth in Section 19.1 of the Agreement.

31. CONSENT

“Consent” or **“consent”** whether capitalized or not and unless expressly specified otherwise, means, with regard to either a specified or an applicable Party whose consent is required hereunder, the voluntary, freely-given consent of such Party, which consent may be withheld in such Party’s sole discretion, with no duty to be reasonable in the withholding of such consent.

32. CORRECTIVE ASSESSMENT

“Corrective Assessment” means a monetary credit to which the County is entitled, as specified in this Agreement, as a result of a particular failure or deficiency of Vendor to meet a Critical Milestone.

33. CRITICAL MILESTONES

“Critical Milestones” means actions and projects identified as Critical Milestones in Schedule 4.

34. COUNTY

“County” means the County of Orange, a political subdivision of the State of California.

35. COUNTY DATA

“County Data” means, in or on any media or form of any kind: (a) data, or summaries or indices of data, related to or describing the County or any Eligible Customer, or the residents, constituents, citizens, clients, customers, employees, agents, subcontractors, or other representatives of the same, or related to or describing the Services or the Systems, regardless of whether or not such data, summaries or indices are owned by the County or any Eligible Customer, generated or compiled by the County or any Eligible Customer, or provided by such residents, constituents, citizens, clients, customers, employees, agents, subcontractors, or representatives, including data that are in the County’s or any Eligible Customer’s databases or otherwise in their possession or control on the Effective Date or at any time thereafter; (b) other County or any Eligible Customer records, data, files, input materials, processed data, results of data analyses, information, reports, forms, and other such items and materials that may be created, received, computed, developed, used, or stored by Vendor, or by any of Vendor’s Subcontractors, for or on behalf of the County or any Eligible Customer in, or in connection with, the performance of Vendor’s duties under this Agreement, but excluding in any event any internal data and information of Vendor and its Subcontractors (other than service level measurements and contract charges) and any correspondence between the Parties; and (c) modifications, compilations, and derivative works of the items, data, and other materials described by the foregoing clauses (a) and (b) as being included within County Data.

36. COUNTY PERSONAL DATA

“County Personal Data” shall mean, collectively, all data or information, in any form, provided to Vendor by or from a third party on behalf of County or collected, generated, or processed by Vendor for the benefit of County, that alone, or in combination with other information: (a) is considered “sensitive personal data” defined under the laws of any applicable country from which such data originated, including any “personal data” or “specially protected personal data” as defined by EU Data Privacy Law, as the case may be, the EU Data Protection Directive 95/46/EC (the “**Directive**”) or, when applicable, EU General Data Protection Regulation 2016/679 (“**GDPR**”), the implementing acts of the foregoing by the Member States of the European Union and/or any other applicable law or regulation relating to the protection of Personal Data, personally identifiable information or protected health information; (b) is considered “non-public personal information,” as such term is defined in Section 509(4) of the Gramm-Leach-Bliley Act and any applicable federal regulations promulgated pursuant thereto; (c) is considered “protected health information” as such term is defined in 45 C.F.R. 164.501 and the Health Insurance Portability and Accountability Act of 1996 and the applicable federal regulations promulgated pursuant thereto; or (d) uniquely identifies a current, former, or prospective customer of County, or a County employee, agent, contractor, or other representative of County, or their respective spouses or families, and includes customer names, addresses, telephone numbers, and/or any other personally identifiable information, including copies of such information and materials derived from such information.

37. COUNTY RESOURCES

“County Resources” shall have the meaning set forth in Section 4.10.3 of the Agreement.

38. COUNTY FACILITIES

“**County Facilities**” shall have the meaning set forth in Section 5.1 of the Agreement.

39. COUNTY RELATIONSHIP MANAGER

“**County Relationship Manager**” shall have the meaning set forth in Schedule 1.

40. COUNTY SOFTWARE

“**County Software**” means Software that is created, developed, or otherwise owned by the County before, on, or after the Effective Date, and all supporting documentation, media, and related materials, and all modifications, enhancements, updates, replacements, and other derivative works of any of the foregoing, including the Software identified in Attachment F, but excluding the Vendor Software and the Third Party Software.

41. COUNTY WORKS

“**County Works**” means tangible and intangible information and developments that are owned by the County (including County Software, to the fullest extent of the County’s rights therein), including all intermediate and/or partial versions thereof and all designs, specifications, inventions, discoveries, improvements, materials, program materials, software, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, other creations, and the like, in any form or media.

42. COUNTY CONFIDENTIAL INFORMATION

“**County Confidential Information**” means:

(a) technical information, materials, data, reports, programs, documentation, diagrams, ideas, concepts, techniques, processes, inventions, knowledge, know-how, and trade secrets, whether in tangible or intangible form, whether disclosed or conveyed by visits to the County’s or any Eligible Customer’s sites or facilities, whether or not marked or otherwise identified as confidential, and whether in any specific form or media, or disclosed orally, that are developed or acquired by such Party, except for Work Product;

(b) information and data relating to the County’s or any Eligible Customer’s practices, personnel, customers (and the business practices, habits, needs, trends, and ordering history of such customers), products, services, orders, business, management information services, financials, costs, or margins that is not generally known by others in the same line of business;

(c) information that the County or any Eligible Customer identifies to Vendor as confidential by a stamp or other similar notice;

(d) information and data relating to the employees and former employees of the County or any Eligible Customer, and the salaries, severance packages, and other benefits, and performance assessments or appraisals, of or applicable to such employees or former employees;

(e) other information relating to the County or any Eligible Customer that is treated as confidential by the County or any Eligible Customer and that a reasonably prudent person would expect not to be made available to third parties without restriction or payment; and

(f) (i) Work Product, County Data, and County Software; and (ii) records, data, information or materials in the possession or control of the County, or created, developed, collected, processed, handled, stored, transmitted, or received, in any form or media, by Vendor or the Systems in connection with this Agreement (including individually identifiable health information), that the County is, for any reason, prohibited from publicly disclosing, whether by law, statute, regulation, ordinance, or contract.

County Confidential Information shall exclude:

- A. Was in the public domain at the time it was disclosed, or
- B. Becomes part of the public domain without breach of this Agreement, or
- C. (1) Is disclosed with the written approval of the other Party, or (2) is disclosed after 3 years or as provided by law from the end of the Term, or
- D. Was independently developed by Vendor, or
- E. (1) Is or was disclosed by the disclosing Party to a third Party without restriction, or
(2) Is disclosed pursuant to the provisions of a court order.

43. DEFAULT

“**Default**” means the occurrence of any one or more of the following:

(a) any material breach by Vendor of its obligations under this Agreement, provided that such breach, if curable, is not cured within thirty (30) days (or such longer period as expressly set forth in this Agreement) after the County provides Vendor with written notice thereof;

(b) any material breach by Vendor with respect to its obligations under this Agreement not capable of cure;

(c) performance of the Services by Vendor in a manner that meets or satisfies any one or more of the criteria expressly specified in Schedule 2 or Schedule 4 as constituting a Default, subject to any applicable cure period and except to the extent excused pursuant to the applicable provisions herein;

(d) any breach by Vendor with respect to any of its representations and warranties under this Agreement, provided that such breach, if curable, is not cured within thirty (30) days (or such longer period as expressly set forth in this Agreement) after the County provides Vendor with written notice thereof;

(e) the failure by Vendor to complete the transition of all Services to Vendor as set forth herein, provided that such Default shall not be subject to a cure period;

(f) any material breach by Vendor of its obligations regarding execution of the Disaster Recovery Plan during a disaster, provided that such Default shall not be subject to a cure period;

(g) any material breach by Vendor as described herein, provided that such Default shall not be subject to a cure period;

(h) numerous or repeated breaches by Vendor of its obligations under this Agreement which collectively constitute a material breach by Vendor of its obligations under this Agreement, provided that such Default shall not be subject to a cure period;

(i) the existence of a material representation by Vendor in Section 21 of this Agreement that Vendor knew or should have known was materially false when made, except that, if such misrepresentation is curable and such cure will fully and completely effect a reasonable resolution, there shall not be a Default if such misrepresentation is cured within fifteen (15) days after Vendor has been notified by the County in writing thereof;

(j) the insolvency of Vendor, the entrance of Vendor into receivership or any arrangement or composition with creditors generally, the filing of a voluntary petition (or an involuntary petition that is not dismissed within sixty (60) days) for bankruptcy or reorganization or dissolution or winding-up of Vendor, a general assignment for the benefit of creditors of Vendor, or a seizure or a sale of a material part of Vendor's property by or for the benefit of any creditor or governmental agency;

(k) an assignment or attempted assignment by Vendor in violation of this Agreement;

For purposes of this Agreement, the word "cure" shall include implementation by the applicable Party of a reasonable work-around or similar temporary measures, provided that such measures do not cause the other Party to incur significant expense, or expend significant time or resources, and that the defaulting Party continually pursues and promptly implements a full and complete cure until such time as such cure is so effected.

Unless this Agreement expressly states that no cure period shall apply or otherwise provides for a different cure period with respect to any event or circumstance that qualifies as a Default under paragraphs (a) through (k) above (in which case no cure period or such other cure period shall apply, as applicable), there shall be a cure period of thirty (30) days with respect to such event or circumstance.

In each instance in which this Agreement contemplates a cure period or otherwise affords a Party an opportunity to cure a potential Default, (i) the other Party shall be required to provide written notice to such Party of such potential Default, (ii) the cure period shall begin when such notice has been received by such Party, and (iii) the potential Default shall not give rise to a Party's rights and remedies under Section 14 unless such notice has been provided and the cure period based thereon has elapsed.

44. DELIVERABLE

"**Deliverable**" means tangible and intangible information or material that must be provided by Vendor to the County under the terms of this Agreement. Deliverables shall constitute Work Product, Vendor Works or Third Party Works.

45. DISABLING DEVICE

"**Disabling Device**" shall have the meaning set forth in Section 4.11 of the Agreement.

46. DISAGREEMENT

"**Disagreement**" means a dispute, controversy, or claim of any nature arising under or in connection with this Agreement, including any that results from any of the following:

- (a) an alleged failure by either Party to perform its obligations under this Agreement;
- (b) an alleged inadequacy or delay of either Party's performance under this Agreement;
- (c) a request for products, services, or resources where the Parties disagree whether such products, services, or resources are within the scope of this Agreement;
- (d) a disagreement as to the responsibilities either Party has under this Agreement; or
- (e) a disagreement as to the creation, validity, interpretation, breach, or termination of this Agreement.

47. DISASTER RECOVERY PLAN

"Disaster Recovery Plan" means the disaster recovery plan attached hereto as Attachment H, as revised and amended from time to time in accordance with Section 4.6 of the Agreement.

48. DISCLOSING PARTY

"Disclosing Party" shall have the meaning set forth in Section 19.2 of the Agreement.

49. DISENTANGLEMENT

"Disentanglement" shall have the meaning set forth in Section 15.1 of the Agreement.

50. DISENTANGLEMENT COMMENCEMENT DATE

"Disentanglement Commencement Date" shall have the meaning set forth in Section 15.2 of the Agreement.

51. DISENTANGLEMENT PERIOD

"Disentanglement Period" shall have the meaning set forth in section 15.1.

52. DISENTANGLEMENT TRANSITION PLAN

"Disentanglement Transition Plan" shall have the meaning set forth in Section 15.2 of the Agreement.

53. DOCUMENTATION

"Documentation" means, with respect to any particular items: (a) all of the written, printed, electronic, or otherwise formatted materials that relate to such items, or any component thereof; (b) all user, operator, system administration, technical, training, support, and other manuals and all other written, printed, electronic, or other format materials that represent, demonstrate, explain or describe the functional, operational or performance capabilities of such items; and (c) all specifications, materials, flow charts, notes, outlines, manuscripts, writings, pictorial or graphical materials, schematics, and other documents that represent, demonstrate, explain or describe such items.

54. EFFECTIVE DATE

“**Effective Date**” shall have the meaning set forth in Section 1.3 of the Agreement.

55. ELIGIBLE CUSTOMER

“**Eligible Customer**” means, a department or agency of the County, Affiliates of County or other public entities receiving Services under this Agreement in accordance with a Subordinate Agreement between the Eligible Customer and Vendor.

56. END USER

“**End User**” means a Person upon whom County intends to confer the right to access and use the Systems or receive the benefit of the performance of the Services or the provision of the Deliverable, whether a County agency or department, Affiliate of the County, employee, client, customer, resident, constituent or citizen of the County, County or any other Person.

57. ENDPOINT(S)

“**Endpoint(s)**” means any Vendor managed device that requires Updates and/or Patches.

58. ENVIRONMENTAL LAWS

“**Environmental Laws**” means applicable federal, state, or local statutes, laws, regulations, rules, ordinances, codes, licenses, orders, or permits of any governmental entity relating to environmental matters including: (a) the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Endangered Species Act (16 U.S.C. §§ 1531 et seq.), the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §§ 110011 et seq.); and (b) all state and local provisions similar in substance or intent to the federal laws described in the foregoing clause (a).

59. ESSENTIAL AGREEMENTS

“**Essential Agreements**” shall have the meaning set forth it in Section 15.3.4 in the Agreement.

60. ESCROW AGREEMENT

“**Escrow Agreement**” shall have the meaning set forth in Section 12.5(a) of the Agreement.

61. ESCROW LICENSE

“**Escrow License**” shall have the meaning set forth in Section 12.6 of the Agreement.

62. EXCEPTION REPORT

“Exception Report” shall have the meaning set forth in Section 8.2 of the Agreement.

63. EXPIRATION DATE

“Expiration Date” shall have the meaning set forth in Section 14.1.1 of the Agreement.

64. FEE REDUCTIONS

“Fee Reductions” shall have the meaning set forth in Section 4.9.4 of the Agreement and Schedule 4.

65. FEES

“Fees” means the fees payable by the County to Vendor hereunder in consideration of Vendor’s performance of the Services, as described in Section 11.1 of the Agreement and specified in, and calculated pursuant to, Schedule 3.

66. FINAL ACCEPTANCE

“Final Acceptance” shall have the meaning set forth in Section 8.3 of the Agreement.

67. FINAL ACCEPTANCE TESTING PERIOD

“Final Acceptance Testing Period” shall have the meaning set forth in Section 8.3 of the Agreement.

68. FINALLY DETERMINED

“Finally Determined”, capitalized or not, means when a claim or dispute has been finally determined by a court of competent jurisdiction, arbitration, mediation, or other agreed-upon governing party and either (1) no associated appeal has timely been sought if capable of being sought or (2) appellate rights properly exercised have otherwise been exhausted.

69. FORCE MAJEURE EVENT

“Force Majeure Event” means a cause beyond the reasonable control of a Party that materially prevents or delays such Party’s performance hereunder (or that materially affects such Party’s need for, ability to effectively utilize, or ability to provide, Services hereunder), including acts of God, act of governmental body or military authority, fire, explosion, power failure, flood, epidemic, riot or civil disturbance, war, sabotage, accidents, civil insurrections, blockades, embargoes, storms, labor disputes (except those involving personnel of Vendor, its Affiliates or its Subcontractors), earthquakes, elements of nature, terrorism, rebellions or revolutions in the United States, or other similar events.

70. GAAP

“GAAP” shall have the meaning set forth in Section 18.1.1 of the Agreement.

71. GAIN SHARING PROPOSALS

“**Gain Sharing Proposals**” shall have the meaning set forth in Section 11.9 of the Agreement.

72. GOOD CAUSE

“**Good cause**” shall have the meaning set forth in Section 9.1.2 of the Agreement.

73. HAZARDOUS MATERIAL

“**Hazardous Material**” means (a) any material which by reason of its quality, concentration, composition or physical, chemical or infectious characteristics may do either of the following: cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness, or pose a substantial threat or potential hazard to human health or the environment, or any material which is defined or regulated as a hazardous waste, toxic substance, hazardous chemical substance or mixture, or asbestos under federal State or local law, as amended from time to time including, but not limited to: (1) the Resource Conservation and Recovery Act and the regulations contained in 40 CFR Parts 260-281; (2) the Toxic Substances Control Act (15 U.S.C. Sections 2601 et seq.) and the regulations contained in 40 CFR Parts 761-766; (3) the California Health and Safety Code, Section 25117 (West 1992 & Supp. 1996); (4) the California Public Resources Code, Section 40141 (West 1996); and (5) future additional or substitute applicable law pertaining to the identification, treatment, storage or disposal of toxic substances or hazardous wastes; or (b) radioactive materials which are source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.) and the regulations contained in 10 CFR Part 40.

74. HOLDBACK AMOUNT

“**Holdback Amount**” shall have the meaning set forth in Section 7.4.4 of the Agreement.

75. HOURLY RATES

“**Hourly Rates**” shall have the meaning set forth in Section 7.4.3 of the Agreement.

76. HIPAA

“**HIPAA**” shall have the meaning set forth in Section 20.2 of the Agreement.

77. INACTIVE ENDPOINT

“**Inactive Endpoint**” means any Vendor managed device that is unreachable and/or has not checked into the County’s current Patch management System within seven (7) calendar days of a Patch(es)/or Update(s) being deployed and requires remediation steps for removal or resolution.

78. IN-BAND

“**In-Band**” means a Software Patch or Update that is released on a set schedule, routine

and/or predictable (e.g., Microsoft Windows Patch Tuesday).

79. IT

“**IT**” means information technology.

80. INCLUDING

“**Including**,” whether capitalized or not, means “including, but not limited to.”

81. INDEMNITEES OR COUNTY INDEMNITEES

“**Indemnitees**” or “**County Indemnitees**” means, with respect to the County, the County, County and the End Users, and the officers, directors, elected and appointed officials, employees, agents, successors, and assigns of each of the foregoing.

82. INDEMNITY CLAIMS

“**Indemnity Claims**” shall have the meaning set forth in Section 23.6.1(A) of the Agreement.

83. INFRINGEMENT CLAIM

“**Infringement Claim**” shall have the meaning set forth in Section 22.1.1 of the Agreement.

84. IN-SCOPE WORK ORDER

“**In-Scope Work Order**” means a request by the County for the performance of work that is not being performed by Vendor at the time such request is made but that is within the scope of the Services.

85. INTELLECTUAL PROPERTY RIGHTS

“**Intellectual Property Rights**” means intellectual or industrial property rights, and moral rights or similar or analogous proprietary rights, pertaining to a particular invention, work of authorship, symbol or other mark or designation indicative of source or quality, or other particular item of tangible or intangible property, arising under statutory or common law or by contract, in the United States, whether or not perfected, now existing or hereafter filed, issued, or acquired, including: (a) patent rights associated with an invention and processes (including business processes), methods and apparatuses entailed by such invention (including, as applicable, the rights to make, use, sell, offer to sell, import into the United States, or have made, and the rights to file and prosecute patent applications and provisional patent applications); (b) rights associated with works of authorship, including copyrights and mask work rights (including the rights to copy, adapt, distribute, display, perform, and create derivative works) including copyright of foreign works entitled to protection in the United States under the Berne Convention; (c) rights relating to the protection of trade secrets and confidential information (including the rights to use and disclose); (d) trademarks, service marks, trade dress, trade names, and design patent rights (including the right to goodwill appertaining thereto); (e) moral rights; and (f) other rights analogous, similar, or comparable

to those described by the foregoing clauses (a) through (e), and other proprietary rights relating to intangible property (including licensing rights and shop rights).

86. INTEREST

“**Interest**” means a financial amount calculated as the average financial amount outstanding multiplied times the number of days outstanding divided by 365 days multiplied times the base rate on corporate loans (prime rate) at large United States money center commercial banks as reported daily in the Wall Street Journal.

87. JOINT OCCUPANCY AGREEMENT

“**Joint Occupancy Agreement**” or “**JOA**” shall have the meaning set forth in Section 5.2 of the Agreement.

88. KEY PERSONNEL

“**Key Personnel**” means those Vendor Personnel who are identified in Schedule 1 attached hereto, or the holders of the positions that are identified in such Schedule, and such other Vendor Personnel that Vendor and the County may agree to identify as Key Personnel from time to time.

89. KEY MILESTONE ALLOCATION

“**Key Milestone Allocation**” shall have the meaning set forth in Section 7.4.4 of the Agreement.

90. KEY MILESTONE SCHEDULED DURATION

“**Key Milestone Scheduled Duration**” shall have the meaning set forth in Section 7.4.4 of the Agreement.

91. LOCATION

“**Location**” means any location at which the County operates, during the period from the Effective Date until the first Service Commencement Date, a data center or performs any IT-related services or functions, and any other location at which Vendor at any time during the Term of this Agreement operates a data center or performs any IT-related services or functions for or on behalf of the County.

92. LOSSES

“**Losses**” means: (a) amounts actually paid to third parties by the applicable Indemnitees (including judgments, settlements, awards, liabilities, losses, damages, and civil penalties); (b) reasonable attorneys’ fees incurred by the applicable Indemnitees, in the case of litigation or arbitration; and (c) out-of-pocket expenses reasonably incurred by the applicable Indemnitees in connection with the investigation or defense of such claims or demands.

93. MACHINES

“Machines” means computers and related equipment, including central processing units and other processors, controllers, modems, communications or telecommunications equipment, cables, storage devices, printers, terminals, other peripherals and input and output devices, and other tangible mechanical and electronic equipment intended for the processing, input, output, storage, transmission, and retrieval of information and data or voice communications.

94. MANAGED CONTRACTS

“Managed Contracts” shall have the meaning set forth in Section 3.2.2 of the Agreement.

95. MONTHLY KEY MILESTONE PAYMENT

“Monthly Key Milestone Payment” shall have the meaning set forth in Section 7.4.4 of the Agreement.

96. NETWORK SERVICE PROVIDER

“Network Service Provider” means the County’s provider of network services, which is Science Applications International Corporation. Prior to March 17, 2019, the Network Service Provider was Atos Governmental IT Outsourcing Services, LLC (formerly known as Xerox State & Local Solutions, Inc.).

97. NOTICE TO PROCEED

“Notice to Proceed” shall have the meaning set forth in Section 7.4.1 of the Agreement.

98. OBJECT CODE

“Object Code” means the form of Software resulting from the compiling, assembly, or other translation or processing of the Source Materials of such Software by a computer into machine language or intermediate code, which is not convenient to human understanding of the program logic, but which is appropriate for execution or interpretation by a computer.

99. OTHER SERVICES

“Other Services” shall have the meaning set forth in Schedule 3.

100. OTHER SERVICES WEIGHTING FACTORS

“Other Services Weighting Factors” shall have the meaning set forth in Schedule 3.

101. OTHER SOFTWARE ASSETS

“Other Software Assets” shall have the meaning set forth in Section 12.11 of the Agreement.

102. OUT-OF-BAND

“Out-of-Band” means a Software Patch or Update that is released outside of the normal update schedule, usually reserved for critical security fixes or urgent improvements that cannot wait.

103. OUT-OF-SCOPE WORK ORDER

“Out-of-Scope Work Order” means a request by the County for the performance of Services that are not expressly within the scope of Services.

104. PARTIES

“Parties” means both the County and Vendor.

105. PARTY

“Party” means the County or Vendor, as the context so requires.

106. PACKAGE

“Package” means Updates and/or Patches bundled to be deployed to an endpoint.

107. PATCH

“Patch” means a small piece of Software designed to Update, fix problems with, or add features to Software or supporting data.

108. PERSON

“Person” means any natural person, corporation, limited liability company, limited liability partnership, general partnership, limited partnership, trustee of a trust or estate, association, governmental body or organization or agency, including, without limitation, the County, any agency or department of the County or an Affiliate of the County, or other legal person or legally constituted entity of any kind.

109. PRIVACY AND SECURITY LAWS

“Privacy and Security Laws” shall have the meaning set forth in Section 20.2 of the Agreement.

110. PRIVACY PLAN

“Privacy Plan” shall have the meaning set forth in Section 4.4 of the Agreement.

111. PROCEDURES MANUAL

“Procedures Manual” means the written document setting forth the operational policies, practices and procedures to be followed by the Parties in connection with performance of the Services.

112. RAMP UP PERIOD

“**Ramp Up Period**” shall have the meaning set forth in Section 11.3.3(b) of the Agreement.

113. RECEIVING PARTY

“**Receiving Party**” shall have the meaning set forth in Section 19.2 of the Agreement.

114. RELATIONSHIP MANAGER

“**Relationship Manager**” means, with respect to a Party, the individual who is designated its Relationship Manager in Schedule 1 hereto, and any subsequent holder of that position designated by such Party, subject to the applicable terms and conditions of this Agreement.

115. REQUIRED CONSENTS

“**Required Consents**” means government approvals and other third party consents or approvals required in connection with: (a) the sale or assignment to Vendor of any contracts, including without limitation, Assigned Contracts and Managed Contracts; (b) the right of the County to use the software that is assigned to Vendor; (c) the assignment or transfer to the County of the rights set forth in Section 12 of the Agreement related to Vendor Works, Third Party Works, Deliverables and Work Product; (d) the license grants set forth in Section 12 of the Agreement related to County Works, Third Party Works and the Chargeback System; and (e) the re-sale or re-assignment to the County of the Contracts in connection with Disentanglement.

116. RESIDUAL KNOWLEDGE

“**Residual Knowledge**” shall have the meaning set forth in Section 19.8 of the Agreement.

117. RESIDUALS

“**Residuals**” means a Party’s general knowledge, skills, and experience, and ideas, concepts, know-how, and techniques, whether developed by it before or during the Term or otherwise obtained by it in connection with performing or receiving the Services, that are related to such Party’s business or business practices and are used by it in the course of providing or receiving the Services, or in using, operating, supporting, or maintaining the Systems, that are retained in the unaided memories of such Party’s personnel in connection with the performance or receipt of the Services, or in using, operating, supporting, or maintaining the Systems, except that Residuals shall in no event include any: (a) information intentionally memorized for the purpose of permitting its subsequent use or disclosure; (b) information protected under the provisions of Section 19 of the Agreement, Confidentiality, of this Agreement; (c) issued or pending patents; or (d) trademarks, service marks, or certification marks.

118. RESOURCE UNIT(S)

“**Resource Unit(s)**” or “**RU(s)**” shall have the meaning set forth in Section 2.1 of Schedule 3 (Fees).

119. RESPONSE PERIOD

“**Response Period**” shall have the meaning set forth in Section 7.4.3 of the Agreement.

120. REVIEWS

“**Reviews**” shall have the meaning set forth in Section 13.1.7 of the Agreement.

121. ROOT CAUSE ANALYSIS

“**Root Cause Analysis**” or “**RCA**” means an analysis performed by Vendor in order to determine the reason for Vendor’s failure to meet its obligations under the Agreement.

122. SECURITY POLICIES

“**Security Policies**” shall have the meaning set forth in Section 13.1.1 of the Agreement.

123. SERVICE AREA

“**Service Area**” means each of the categories of Services as set forth in each applicable Statement of Work (set forth in Schedule 2 herein).

124. SERVICE COMMENCEMENT DATE

“**Service Commencement Date**” means the ‘go-live’ date(s) or the date(s) that the selected scope of Services is to be fully undertaken by Vendor in accordance with the time frames set forth in the Transition Plan.

125. SERVICE LEVEL/SERVICE LEVEL REQUIREMENT

“**Service Level**” or “**Service Level Requirement**” or “**SLR**” means, generally, a minimum acceptable level of service or performance for a particular task, activity, or Service performed by Vendor hereunder, as specified in the Appendices to Schedule 2. “Service Level Requirement” or “SLR” is the specific performance requirement for a Service Level (typically, but not exclusively, a measure of efficiency expressed as a percentage).

126. SERVICES

“**Services**” has the meaning attributable to it in Section 4.1 of the Agreement.

127. SIGNING DATE

“Signing Date” shall have the meaning set forth in Section 1.3 of the Agreement.

128. SOC 1

“**SOC 1**” shall have the meaning set forth in Section 18.1.4 of the Agreement.

129. SOC 2

“**SOC 2**” shall have the meaning set forth in Section 18.1.4 of the Agreement.

130. SOFTWARE

“**Software**” means computer programs and program objects of any kind (including object code and source code, and any intermediate forms or versions thereof), program set-up and customization parameters and data, and the tangible media on which any of the foregoing are recorded. Notwithstanding the foregoing, in no event shall “Software” as used in this Agreement include Third Party Software source code.

“**Software**” means individually each, and collectively all, of the computer programs and software (including Open Source Software), licensed by County or Supplier from a Third Party Vendor, or otherwise provided by Supplier or County under this Agreement, including any: (1) embedded or re-marketed Third Party Vendor software or computer programs, (2) Interfaces, (3) Source Materials, (4) Object Code, (5) applications, (6) Operating Systems, or (7) firmware. Software shall include any and all Revisions thereto, and any and all programs provided by a Third Party Vendor, Supplier, or County in the future under this Agreement.

131. SOURCE MATERIALS

“**Source Materials**” means, with respect to Software, the source code of such Software and all related compiler command files, build scripts, scripts relating to the operation and maintenance of such Software, application programming interface (API), graphical user interface (GUI), object libraries, all relevant instructions on building the Object Code of such Software, and all Documentation relating to the foregoing.

132. SOX

“**SOX**” shall have the meaning set forth in Section 18.4 of the Agreement.

133. SPECIFICATIONS

“**Specifications**” means the descriptions of items (except for Residuals) provided hereunder, and the respective components, capacities, functions, and methods of such items, as set forth in this Agreement, and all Documentation pertaining to such items, or as otherwise provided to the County by Vendor in writing.

134. SSAE

“**SSAE**” shall have the meaning set forth in Section 18.1.4 of the Agreement.

135. STATEMENTS OF WORK

“**Statements of Work**” or “**SOW**” shall have the meaning set forth in Section 4.1.1(c) of the Agreement.

136. STATUS REPORT

“Status Report” shall have the meaning set forth in Section 7.1. of the Agreement.

137. SUBCONTRACTOR

“Subcontractor” means any Person (including any Vendor Affiliate) other than Vendor that provides Services to the County in connection with this Agreement pursuant to an agreement such Person has with Vendor.

138. SUBORDINATE AGREEMENT

“Subordinate Agreement” means a contract or other agreement entered into between Vendor and an Eligible County in accordance with Section 2.1.2 of the Agreement.

139. SYSTEMS

“Systems” means the IT functions, capabilities, operations, and systems that, at any particular time prior to the applicable Service Commencement Date, are used, operated, supported, or maintained by the County, or that, at any particular time during the Term on or after the applicable Service Commencement Date, are used, operated, supported, or maintained by Vendor on behalf of, or for the benefit of, the County in Vendor’s performance of the Services hereunder, including such IT systems as are described in this Agreement, including as components thereof: (a) the Vendor Software; (b) the Third Party Software; (c) County Software; (d) the Work Product; and (e) the entire system of hardware, Software, equipment, networks, and network components that constitute, are associated with or related to, or interconnect, any of the items described by the foregoing clauses (a) through (d), or on which such items are installed, operated, or used, at any of the Locations, including any such hardware and Software produced by third parties that is embedded within such Vendor Software, Third Party Software or the Work Product, and revisions, updates, modifications, and customizations to any or all of the hardware, Software, equipment, networks, and network components described by such clauses, in accordance with this Agreement.

140. TECHNOLOGY REFRESH PLAN

“Technology Refresh Plan” means the plan to be followed by Vendor in periodically replacing or refreshing the technology used to perform the Services or provide the Deliverables, or otherwise used by Vendor and its Subcontractors in connection with the Systems, as set forth in Attachment I attached hereto.

141. TERM

“Term” means the period during which Vendor shall be obligated to provide the Services, as specified in Section 14.1 of the Agreement.

142. TERMINATION DATE

“Termination Date” shall have the meaning set forth in Section 14.2 of the Agreement.

143. TERMINATION FEE

“Termination Fee shall have the meaning set forth in Section 14.9 of the Agreement.

144. TERMINATION NOTICE

“Termination Notice” shall have the meaning set forth in Section 14.2 of the Agreement.

145. THIRD PARTY SOFTWARE

“Third Party Software” means the Software provided to the County by Vendor through its Subcontractors (including all updates, enhancements, customizations, and other improvements thereof), as specifically identified in Attachment F hereto, as may be modified by mutual agreement of the Parties from time to time.

146. THIRD PARTY WORKS

“Third Party Works” means tangible and intangible information and material that: (a) had already been conceived, invented, created, developed or acquired by a third party prior to the Effective Date; or (b) were conceived, invented, created, developed or acquired by a third party after the Effective Date, but only to the extent such information and material do not constitute Work Product hereunder. A Third Party Work includes all intermediate and partial versions thereof, including all source code and object code with respect thereto, and all designs, specifications, inventions, discoveries, improvements, materials, program materials, software, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, other creations, and the like, whether or not patented or patentable or otherwise protectable by law. Third Party Works shall include Third Party Software.

147. TOWER

“Tower” or **“Service Tower”** means the applicable scope of Services or Service Area as defined in a Statement of Work.

148. TRANSITION PLAN

“Transition Plan” means the project plan for the transition of the Services to Vendor that is described in Section 4.2.3 of the Agreement and Attachment B.

149. TRANSITION

“Transition” has the meaning attributed to it in Section 4.2.2 of the Agreement.

150. TRANSITION WAVE

“Transition Wave” means a smaller group or subset of the Transition related tasks required to be performed or undertaken as a prerequisite to the Vendor’s provision of the Services. The set of tasks that will comprise each Transition Wave will be set forth in the applicable Transition Plan, and each Transition Wave will have its own schedule for completion. By way of example, the set of tasks required to transition to Vendor the provision of data center services may be grouped together and designated as ‘Transition Wave 1’; and the set of tasks required to transition to Vendor the provision of applications maintenance services may be

grouped together and designated as 'Transition Wave 2'. Each such Transition Wave will have different schedules for completion and different Service Commencement Dates.

151. TRIGGERING EVENT

"Triggering Event" shall have the meaning set forth in Section 12.5(c) of the Agreement.

152. TYPE 1 WORK ORDER

"Type 1 Work Order" shall have the meaning set forth in Section 7.4.1.1 of the Agreement.

153. TYPE 2 WORK ORDER

"Type 2 Work Order" shall have the meaning set forth in Section 7.4.1.2 of the Agreement.

154. UPDATE

"Update" means a redistribution of Software that corrects an error as well as addresses common functional and performance issues.

155. VENDOR

"Vendor" shall have the meaning set forth in the preamble to the Agreement.

156. VENDOR PERSONNEL

"Vendor Personnel" means, at a given time during the Term, Vendor's Relationship Manager, the Key Personnel, and all other employees of Vendor or of Subcontractors of Vendor who are then assigned or performing responsibilities in connection with providing the Services. An individual falling within such description is a "Vendor Person." A complete list of Vendor Personnel, including the specific position occupied or function performed by each Vendor Person, shall be promptly provided by Vendor at any time, and from time to time, during the Term, upon the reasonable written request of the County.

157. VENDOR'S RELATIONSHIP MANAGER

"Vendor's Relationship Manager" is defined in Section 9.1.1 of the Agreement and Schedule 1.

158. VENDOR RESOURCES

"Vendor Resources" has the meaning attributed to it in Section 4.10.3 of the Agreement.

159. VENDOR SOFTWARE

"Vendor Software" means the Software licensed by the County from Vendor, including the Software that is specifically identified in Attachment F (including all updates, enhancements, customizations, and other improvements thereof).

160. VENDOR SYSTEMS

“**Vendor Systems**” shall have the meaning set forth in Section 13.1.4 of the Agreement.

161. VENDOR WORKS

“**Vendor Works**” means tangible and intangible information and material that: (a) had already been conceived, invented, created, developed or acquired by Vendor prior to the Effective Date; or (b) were conceived, invented, created, developed or acquired (but excluding Third Party Works approved for Vendor’s use in the Services by the County) by Vendor after the Effective Date, but only to the extent such information and material do not constitute Work Product hereunder. A Vendor Work includes all intermediate and partial versions thereof, including all source code and object code with respect thereto, and all designs, specifications, inventions, discoveries, improvements, materials, program materials, software, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, other creations, and the like, whether or not patented or patentable or otherwise protectable by law. Vendor Works shall include Vendor Software.

162. WEIGHTING FACTORS

“**Weighting Factors**” shall have the meaning set forth in Schedule 4.

163. WORK PRODUCT

“**Work Product**” means information and developments, and intermediate or partial versions thereof, including source code and object code with respect thereto, processes, methods, apparatus, programs and materials related to processing, handling, tracking, enabling or fulfilling the County’s receipt or the Services, or access to and use of the Systems, and related policies and procedures, and designs, specifications, inventions, discoveries, improvements, ideas, know-how, techniques, materials, program materials, Software, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, other creations, and the like, whether or not patented or patentable, subject to copyright, constituting a trade secret, or otherwise protectable by law, that are created, invented, or conceived by Vendor in its performance under this Agreement, or by any Person engaged by Vendor in the performance of Vendor’s obligations or the exercise of Vendor’s rights under this Agreement. Each of the Parties acknowledges that, to the extent that Work Product contains Confidential Information of another Party, such Work Product shall be subject to the provisions of Section 19 of this Agreement.