

**Amendment #1 to
DPA
Between
Hitachi Data Systems and Fresno County Sheriff's Office**

Hitachi Data Systems Corporation ("HDS"), with a principal place of business at 2845 Lafayette Street, Santa Clara, CA 95050, and the County of Fresno, on behalf of the Fresno County Sheriff's Office with a principal place of business at 2200 Fresno Street, Fresno, CA 93721, ("Customer"), each a "party", collectively the "parties" do hereby enter into this Amendment #1, effective March 24, 2016, for the purpose of amending the Direct Purchasing Agreement No. FCS0032416 which has an Effective Date of March 24, 2016 (herein referred to as the "Agreement").

NOW, THEREFORE, in consideration of the premises and obligations contained herein, it is agreed as follows:

1. The parties hereby incorporate by reference the Agreement. Except as expressly stated herein, the Agreement remains unchanged and in full force and effect. In case of conflict between this Amendment #1 and the Agreement, the provisions set forth in this Amendment #1 shall supersede and control with regard to the subject matter contained herein.

2. This Amendment #1 is made to change and replace paragraph eight (8) of the Agreement with the following:

"8. Term and Termination

The tem of this Agreement shall be for a period of three (3) years, commencing on February 28, 2017 through and including February 27, 2020. This Agreement may be extended for two (2) additional consecutive twelve (12) month periods upon written approval of both parties no later than thirty (30) days prior to the first day of the next twelve (12) month extension period. The Sheriff-Coroner or his or her designee is authorized to execute such written approval on behalf of Customer based on HDS' satisfactory performance.

The DPA will start on the effective date and continue as referenced above and can be terminated by either of the parties by written notice to the other, if the other (i) breaches the confidentiality, intellectual property or export compliance sections of the DPA; (ii) commits a material breach of any other terms and does not remedy that breach within 30 days of written notice to do so (iii) becomes or threatens to become Insolvent. If the DPA is terminated, customer's rights, licenses and privileges under it will terminate and customer must comply with HDS' requests to either remove and destroy all Hitachi IP in customer's possession or control or return such material and items to HDS at customer's cost. Furthermore, customer will not be relieved from customer's payment obligations and any money due to HDS will become immediately payable. Neither of the parties are deemed to have waived any existing rights."

3. This Amendment #1 is made to change the date of the Maintenance Agreement, referenced in the first paragraph on page 1 of the Agreement, and which is to be attached to the Agreement as Exhibit A, from April 1, 2016 to February 28, 2017.

4. This Amendment #1 is made to add the County of Fresno's Self-Dealing Transaction Disclosure Form, which is to be attached to the Agreement as Exhibit B.

5. This Amendment #1 is made to supersede and replace the signature block at the end of the Agreement with the following:

"IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

CONTRACTOR

COUNTY OF FRESNO



(Authorized Signature)



Brian Pacheco, Chairman, Board of Supervisors

K. L. Barnes - Division Sales Controller

ATTEST:

BERNICE E. SEIDEL, Clerk
Board of Supervisors

Print Name & Title
2845 Lafayette Street

By 
Deputy

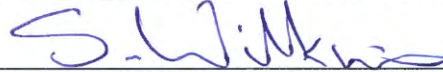
Santa Clara, California 95050

Mailing Address

DATE: December 27, 2016

DATE: February 28, 2017

REVIEWED & RECOMMENDED FOR APPROVAL



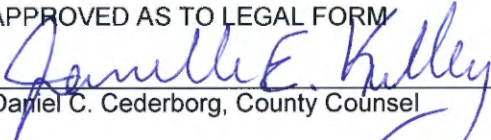
Margaret Mims, Sheriff-Coroner

APPROVED AS TO ACCOUNTING FORM



Oscar J. Garcia CPA, Auditor/Controller/Treasurer-
Tax Collector

APPROVED AS TO LEGAL FORM



Daniel C. Cederborg, County Counsel

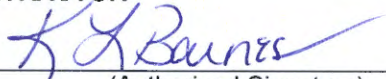
FOR ACCOUNTING USE ONLY

ORG No.: 31116396
Account No.: 7295
Requisition No.: 3111602565"

6. The parties agree that this Amendment #1 is sufficient to amend the Agreement and, that upon execution of this Amendment #1, the Agreement and this Amendment #1 together shall be considered the Agreement. All provisions, terms, covenants, conditions and promises contained in the Agreement and not amended herein shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1.

CONTRACTOR



(Authorized Signature)

K. L. Barnes - Division Sales Controller

Print Name & Title
2845 Lafayette Street

Santa Clara, California 95050

Mailing Address

DATE: December 27, 2016

COUNTY OF FRESNO



Brian Pacheco, Chairman, Board of Supervisors

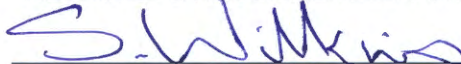
ATTEST:

BERNICE E. SEIDEL, Clerk
Board of Supervisors

By 
Deputy

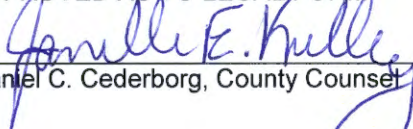
DATE: February 28, 2017

REVIEWED & RECOMMENDED FOR APPROVAL



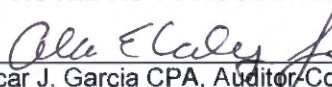
Margaret Mims, Sheriff-Coroner

APPROVED AS TO LEGAL FORM



Daniel C. Cederborg, County Counsel

APPROVED AS TO ACCOUNTING FORM



Oscar J. Garcia CPA, Auditor/Controller/Treasurer-
Tax Collector

FOR ACCOUNTING USE ONLY:

ORG No.: 31116396
Account No.: 7295
Requisition No.: 3111602565

MAINTENANCE AGREEMENT

Exhibit A

THIS AGREEMENT and the attached Exhibit 1 is made and entered into this 28th day of February, 2017, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and HITACHI DATA SYSTEMS CORPORATION, whose address is 2845 Lafayette Street, Santa Clara, CA 95050-2639, hereinafter referred to as "CONTRACTOR" (collectively referred to as the "Maintenance Agreement"). This Maintenance Agreement is governed by the DPA in place between COUNTY and CONTRACTOR with an Effective Date of March 24, 2016 ("Agreement"), except to the extent this Maintenance Agreement amends the DPA.

The parties agree as follows:

1. COMPENSATION/INVOICING:

In no event shall products provided together with services performed under the DPA and this Maintenance Agreement be in excess of Five Hundred Thousand Dollars and No Cents (\$500,000.00) during the term of this Agreement. It is understood that all expenses incidental to CONTRACTOR'S performance of services under this Agreement shall be borne by CONTRACTOR.

2. INDEPENDENT CONTRACTOR: In performance of the work, duties and obligations assumed by CONTRACTOR under this Agreement, it is mutually understood and agreed that CONTRACTOR, including any and all of the CONTRACTOR'S officers, agents, and employees will at all times be acting and performing as an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or associate of the COUNTY. Furthermore, COUNTY shall have no right to control or supervise or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions thereof.

CONTRACTOR and COUNTY shall comply with all applicable provisions of

1 law and the rules and regulations, if any, of governmental authorities having jurisdiction over
2 matters the subject thereof.

3 Because of its status as an independent contractor, CONTRACTOR shall have
4 absolutely no right to employment rights and benefits available to COUNTY employees.
5 CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its
6 employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely
7 responsible and save COUNTY harmless from all matters relating to payment of
8 CONTRACTOR'S employees, including compliance with Social Security withholding and all other
9 regulations governing such matters. It is acknowledged that during the term of this Agreement,
10 CONTRACTOR may be providing services to others unrelated to the COUNTY or to this
11 Agreement.

12 3. TERMINATION

13 The parties agree that the DPA and this Maintenance Agreement may be terminated as follows:

14 A. Non-Allocation of Funds – The terms of the DPA and this Maintenance
15 Agreement, and the products and services to be provided hereunder, are contingent on the
16 approval of funds by the appropriating government agency. Should sufficient funds not be
17 allocated, the products and services to be provided may be modified, or the DPA and this
18 Maintenance Agreement terminated, at any time by giving the CONTRACTOR thirty (30) days
19 advance written notice.

20 B. Without Cause – Under circumstances other than those set forth above,
21 the DPA and this Maintenance Agreement may be terminated by COUNTY upon the giving of
22 thirty (30) days advance written notice of an intention to terminate to CONTRACTOR.

23 4. INSURANCE

24 CONTRACTOR, at its sole expense, shall maintain in full force and effect, the
25 following insurance policies or a program of self-insurance, including but not limited to, an
26 insurance pooling arrangement or Joint Powers Agreement (JPA) throughout the term of the
27 Agreement:
28

1 A. Commercial General Liability

2 Commercial General Liability Insurance with limits of not less than One
3 Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars
4 (\$2,000,000). This policy shall be issued on a per occurrence basis. COUNTY may require
5 specific coverages including completed operations, products liability, contractual liability, and fire
6 legal liability.

7 B. Automobile Liability

8 Comprehensive Automobile Liability Insurance with limits for bodily injury of
9 not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) per person, Five Hundred
10 Thousand Dollars (\$500,000.00) per accident and for property damages of not less than Fifty
11 Thousand Dollars (\$50,000.00), or such coverage with a combined single limit of Five Hundred
12 Thousand Dollars (\$500,000.00). Coverage should include owned and non-owned vehicles used
13 in connection with this Agreement.

14 C. Professional Liability

15 If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N.,
16 L.C.S.W., M.F.C.C.) in providing services, Professional Liability Insurance with limits of not less
17 than One Million Dollars (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00)
18 annual aggregate.

19 D. Worker's Compensation

20 A policy of Worker's Compensation insurance as may be required by the
21 California Labor Code.

22 CONTRACTOR shall obtain endorsements to the Commercial General Liability
23 insurance naming the County of Fresno, its officers, agents, and employees, individually and
24 collectively, as additional insured, but only insofar as the operations under this Agreement are
25 concerned. Such coverage for additional insured shall apply as primary insurance and any other
26 insurance, or self-insurance, maintained by COUNTY, its officers, agents and employees shall be
27 excess only and not contributing with insurance provided under CONTRACTOR's policies herein.
28 This insurance shall not be cancelled or changed without a minimum of thirty (30) days advance

1 written notice given to COUNTY.

2 Within Thirty (30) days from the date CONTRACTOR signs and executes this
3 Agreement, CONTRACTOR shall provide certificates of insurance and endorsement as stated
4 above for all of the foregoing policies, as required herein, to the County of Fresno, Project
5 Manager, stating that such insurance coverage have been obtained and are in full force; that the
6 County of Fresno, its officers, agents and employees will not be responsible for any premiums on
7 the policies; that such Commercial General Liability insurance names the County of Fresno, its
8 officers, agents and employees, individually and collectively, as additional insured, but only insofar
9 as the operations under this Agreement are concerned; that such coverage for additional insured
10 shall apply as primary insurance and any other insurance, or self-insurance, maintained by
11 COUNTY, its officers, agents and employees, shall be excess only and not contributing with
12 insurance provided under CONTRACTOR's policies herein.

13 In the event CONTRACTOR fails to keep in effect at all times insurance
14 coverage as herein provided, the COUNTY may, in addition to other remedies it may have,
15 suspend or terminate this Agreement upon the occurrence of such event.

16 All policies shall be issued by admitted insurers licensed to do business in the
17 State of California, and such insurance shall be purchased from companies possessing a current
18 A.M. Best, Inc. rating of A- FSC VII or better.

19 5. AUDITS AND INSPECTIONS:

20 The CONTRACTOR shall at any time during business hours, and as often as the COUNTY may
21 deem necessary, make available to the COUNTY for examination all of its records with respect to
22 the matters covered by this Agreement. The CONTRACTOR shall, upon request by the
23 COUNTY, permit the COUNTY to audit and inspect all of such records necessary to ensure
24 CONTRACTOR'S compliance with the terms of this Agreement.

25 If this Maintenance Agreement exceeds ten thousand dollars (\$10,000.00),
26 CONTRACTOR shall be subject to the examination and audit of the Auditor General for a period
27 of three (3) years after final payment under contract (Government Code Section 8546.7) subject to
28 the terms noted above.

1 6. NOTICES: The persons and their addresses having authority to give and
2 receive notices under this Agreement include the following:

3 COUNTY
4 COUNTY OF FRESNO
5 Attention: Rick Hill
6 Project Manager
7 2200 Fresno Street
8 Fresno, CA. 93721

CONTRACTOR
 Hitachi Data Systems
 2845 Lafayette Street
 Santa Clara, CA. 95050-2639

7 All notices between the COUNTY and CONTRACTOR provided for or
8 permitted under the DPA and this Maintenance Agreement must be in writing and delivered either
9 by personal service, by first-class United States mail, by an overnight commercial courier service,
10 or by telephonic facsimile transmission. A notice delivered by personal service is effective upon
11 service to the recipient. A notice delivered by first-class United States mail is effective three
12 COUNTY business days after deposit in the United States mail, postage prepaid, addressed to the
13 recipient. A notice delivered by an overnight commercial courier service is effective one COUNTY
14 business day after deposit with the overnight commercial courier service, delivery fees prepaid,
15 with delivery instructions given for next day delivery, addressed to the recipient. A notice delivered
16 by telephonic facsimile is effective when transmission to the recipient is completed (but, if such
17 transmission is completed outside of COUNTY business hours, then such delivery shall be
18 deemed to be effective at the next beginning of a COUNTY business day), provided that the
19 sender maintains a machine record of the completed transmission. For all claims arising out of or
20 related to the DPA and this Maintenance Agreement, nothing in this section establishes, waives,
21 or modifies any claims presentation requirements or procedures provided by law, including but not
22 limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code, beginning
23 with section 810).

24 7. The parties understand that the COUNTY is a governmental entity that is
25 subject to the California Public Records Act. The parties agree that COUNTY will maintain the
26 confidentiality of CONTRACTOR's Confidential Information, except when disclosure is required by
27 law.

28 8. Exhibit 1, attached hereto, is incorporated herein by this reference.

1 IN WITNESS WHEREOF, the parties hereto have executed this Maintenance
2 Agreement as of the day and year first hereinabove written.

3 **CONTRACTOR**

COUNTY OF FRESNO

4 K. L. Barnes
(Authorized Signature)

Brian Pacheco
Brian Pacheco, Chairman, Board of Supervisors

6 K. L. Barnes - Division Sales Controller

ATTEST:

BERNICE E. SEIDEL, Clerk
Board of Supervisors

7 Print Name & Title
2845 Lafayette Street

By Susan Bishop
Deputy

8 Santa Clara, California 95050

9 Mailing Address

10 DATE: December 1, 2016

DATE: February 28, 2017

REVIEWED & RECOMMENDED FOR APPROVAL

Margaret Mims
Margaret Mims, Sheriff-Coroner

14 APPROVED AS TO LEGAL FORM

15 Daniel C. Cederborg
Daniel C. Cederborg, County Counsel

APPROVED AS TO ACCOUNTING FORM

Oscar J. Garcia
Oscar J. Garcia CPA, Auditor-Controller/Treasurer-
Tax Collector

17 FOR ACCOUNTING USE ONLY:

18 ORG No.: 31116396
19 Account No.: 8300/7295
20 Requisition No.: 3111602565
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1 EXHIBIT 1. SUPPORT AND MAINTENANCE OF THE VIPP

2
3 THIS Exhibit 1 is between County of Fresno and Hitachi Data Systems or its subcontractor(s)
4 ("Hitachi Data Systems").

5 The County shall pay Fifty Thousand Dollars (\$50,000.00) to Hitachi Data Systems for the
6 services detailed in this Exhibit 1, which shall be paid in two instalments (February 28, 2017
7 and March 31, 2017) and within thirty (30) days of the date of invoice.

8 **1.0 INCLUDED SERVICE**

9 All (i) equipment, (ii) components, (iii) hardware and (iv) software and (v) peripherals installed
10 by Avrio and Hitachi Data Systems under County Agreement No. 10-651, as amended, and
11 installed under the Agreement to which this Maintenance Agreement is attached ("Hitachi
12 Data Systems Supplied Products") will be warranted against material defect for eight months
beginning January 31, 2017 through August 31, 2017. (the "Maintenance Term").

13 1.1 Subject to the limitations and exclusions provided herein, all onsite support (service
14 warranty), including all Hitachi Data Systems Supplied Products, personnel, engineering and
15 technical resources and labor and travel expenses are included during the Maintenance Term.

16 1.2 Hitachi Data Systems shall provide to the County a "Live Person" answered 24x7 phone
17 number by which the County authorized personnel may request either phone support or on-site
18 service. When calling this number for phone support or service, the person taking the call shall
19 have the skill-set to answer the County's technical questions or have authority to contact a
20 qualified service technician and have him or her return the requestor's call within 4 hours of the
21 initial service request. The person answering the trouble-call shall have the authority to
22 dispatch an on-site service technician to the County at the County's request. Service issues
23 that are unable to be resolved by phone during the initial phone call, or by a technician
24 returning a call, shall be dispatched according to the following defined "Severity" levels. The
25 County shall authorize Hitachi Data Systems to have "Remote Access" to the System. Hitachi
26 Data Systems repairs will be handled remotely if the problem can be resolved remotely.

27 1.3 Ability to use telephone, e-mail, chat and screen sharing technology for all support
28 incidents including end-user support. In most cases the representative will be the County of
Fresno.

Phone: 1-877-899-9334

E-Mail: videosupport@hds.com

1.4 The following severity levels (SLA) shall be met:

a. Severity Level -1 will be assigned at the County's discretion 24X7X365. This request will be approved by authorized Sheriff's Office personnel. This requires that Hitachi Data Systems when called by the Sheriff's Office authorized personnel requesting service be on-site at an agreed upon location in the County within 4 hours of the Sheriff's Office initial request for service. Onsite service will only be scheduled during normal working hours M-F (8AM to 5PM EST). The County shall authorize Hitachi Data Systems to have "Remote Access" to the System. Hitachi Data Systems repairs will be handled remotely if the problem can be resolved remotely. Severity Level 1 is defined as more than 10% of the System's cameras being non-operational. Technicians working on the system will contact the Sheriff's Office authorized representative on arrival and when work is completed.

b. Severity Level -2 requires that Hitachi Data Systems when called by the Sheriff's Office authorized personnel requesting service, be on-site at an agreed upon location excluding weekends and County observed holidays, the next business day Monday - Friday. Except when a request for service is received before 10 AM, service will be on-site the same business day. The Sheriff's Office shall authorize Hitachi Data Systems to have "Remote Access" to the video System. Hitachi Data Systems repairs will be handled remotely if the problem can be resolved remotely. Severity Level 2 is defined as one or more of the System's cameras being non-operational.

c. Severity Level -3 requires that Hitachi Data Systems when called by the Sheriff's Office authorized personnel requesting service, have a service technician on-site at an agreed upon location Monday - Friday excluding weekends and County observed holidays within 3 business days of the County requesting service. The County shall authorize Hitachi Data Systems to have "Remote Access" to the System. Hitachi Data Systems repairs will be handled remotely if the problem can be resolved remotely. Severity Level 3 is defined as all non-video streaming and/or PTZ control issues with the System.

1.5 Remote management for the System.

1.6 Reporting on all issues, repairs and service tickets.

Notes:

- A eight months full service on-site service warranty shall include all Hitachi Data Systems Supplied Products, personnel, engineering and technical resources, labor, and all travel expenses. With respect to defective Hitachi Data Systems Supplied Products and workmanship, Hitachi Data Systems obligations will be limited to, at its sole option, repairing or replacing such product.
- Pursuant to the terms of this Agreement, any service and labor charges of services or products not otherwise covered under the terms of this Agreement (i.e., non-Hitachi Data

1 Systems Supplied Products and products not covered by manufacturer's warranty) shall
2 be charged by Hitachi Data Systems at the following rates: Mon-Fri \$150.00/hr; Sat, Sun
3 & Holidays \$250.00/hr. Hours billed after normal working hours (7am-6pm) will be billed
4 at 1.5 times the hourly rate. Travel expenses are additional and charged as one way
travel time at normal hourly rates.

- 5 ■ All onsite scheduling of repair work is dependent upon weather, daylight and other
6 factors.

7 **2.0 HITACHI DATA SYSTEMS RESPONSIBILITIES**

8 During the Maintenance Term:

9 3.0 Hitachi Data Systems will use commercially reasonable efforts to provide services
10 described in Section 1to assist the County to resolve problems in its use of the CCTV
Network solution.

11 3.1 Hitachi Data Systems will provide access on its web site and/or FTP site to all
12 maintenance updates for software and firmware that is part of the System to the County as
13 soon as practical in the ordinary course of business after commercial release of the same.

14 3.2 Hitachi Data Systems will provide the County with maintenance updates, which, in
15 Hitachi Data Systems sole determination, correct application problems that are reasonably
likely to prevent substantially full utilization of Hitachi Data Systems Supplied Product(s).

16 3.3 Hitachi Data Systems will offer services for the then current release of Hitachi Data
17 Systems Supplied Products. Hitachi Data Systems will also offer services for the release of
18 Hitachi Data Systems Supplied Products immediately preceding the then-current release for not
less than eight (8) months from the date of such release.

19 **4.0 COUNTY RESPONSIBILITIES**

20 4.1 The County is responsible for any changes in operating systems, network setup, network
21 maintenance and setup and use of any file access control systems.

22 4.2 The Sheriff's Office is responsible for providing Hitachi Data Systems with remote
23 access to the System. The remote access will be setup such that, the Sheriff's Office has to
approve the access on a per incident basis.

24 4.3 The Sheriff's Office is responsible for ensuring that its personnel have sufficient training
25 to attain and maintain competence in the operation of the System software.

26 4.4 The Sheriff's Office will make available personnel to Hitachi Data Systems for training on
27 camera operations and software and storage management system (as appropriate for their
28 role).

1 4.5 The Sheriff's Office shall provide its personnel access to, and require its personnel to
2 review, the System software user guide before calls are made to Hitachi Data Systems
3 telephone support. Hitachi will provide adequate copies of the System Software user guide as
well as the appropriate website for online reading.

4 4.6 If Hitachi Data Systems determines, in its sole discretion, in responding to the Sheriff's
5 Office request for telephone support, that the solution is provided in the user guide, Hitachi
Data Systems may direct Sheriff's Office personnel to the guide for the solution to the problem.

6 4.7 The Sheriff's Office is responsible for requesting any maintenance term extension. In the
7 event that the Sheriff's Office does not request and pay for a maintenance term extension,
8 Hitachi Data Systems makes no guarantee that services will be supplied.

9 **5.0 PRODUCTS COVERED IN AGREEMENT**

10 This Agreement shall cover the equipment that was installed by Avrio and Hitachi Data
11 Systems under County Agreement No. 10-651, as amended, ("Existing Equipment") and the
12 Equipment provided by Hitachi under the DPA to which this Maintenance Agreement is
13 attached ("Hitachi Data Systems Equipment"), which together is the "Equipment".

14 **6.0 EQUIPMENT MAINTENANCE**

15 Subject to the limitations and exclusions herein, Hitachi Data Systems agrees, during the
16 Maintenance Term, subject to the other terms of this Agreement, to keep the Equipment in
17 satisfactory operation, as defined by the Sheriff's Office, and to make all repairs and
18 adjustments to Equipment, and to supply such parts as may be required which are incidental to
19 the maintenance of the Equipment. Such maintenance shall be provided to the Sheriff's Office
20 at Hitachi Data Systems cost at such Equipment's location. During the Maintenance Term,
21 Hitachi Data Systems shall on the Sheriff's Office behalf, use commercially reasonable efforts
22 to pass on the benefits of a manufacturer's warranty with regard to Equipment that is in excess
23 of the Maintenance Term but still under the manufacturer warranty. With regard to any
24 Equipment or any part thereof that requires replacement during the Maintenance Term, the
25 equipment will be replaced at no additional charge to the County With respect to defective
26 Hitachi Data Systems Equipment, Hitachi Data Systems obligations will be limited to, at its sole
27 option, repairing or replacing such Hitachi Data Systems Equipment.

28 **7.0 EXCLUSIONS FROM COVERED MAINTENANCE**

The following labor and services shall be expressly excluded from the Equipment maintenance
provisions of Section 5 of this Agreement and shall be subject to Hitachi Data Systems normal
rates as set forth in Section 1.6 for service and labor:

7.1 Services required due to change or alterations subsequent to the date hereof in

1 Equipment specifications not performed by Hitachi Data Systems personnel.

2 7.2 Unauthorized installation, moving, or removing subsequent to the date hereof of the
3 Equipment, options, attachments or cables.

4 7.3 Replacement of parts, repair of damage or increase in service time to Equipment
5 resulting from fire, lightning, flood, wind, accident, theft, abuse, neglect, misuse, natural
6 disaster, or any causes other than ordinary use for which the Equipment was intended.

7 7.4 Electrical work external to the Equipment or maintenance of accessories, attachments or
8 other devices not listed on the Equipment list. Exclusive of work performed by a Hitachi
9 approved contractor.

10 7.5 Service or repair due to failure of electrical power, air conditioning or humidity control.

11 7.6 Refinishing of Equipment.

12 7.7 Specific requests by the Sheriff's Office for maintenance, which is in addition to included
13 Equipment maintenance services.

14 **8.0 SOFTWARE RELATED PROBLEMS**

15 Hitachi Data Systems is responsible to provide support for all software related problems that
16 relate to software included in the Hitachi Data Systems Supplied Products. Upon a
17 determination by an Hitachi Data Systems engineer that a problem is related to software not
18 related to Hitachi Data Systems Supplied Products, and thereby excluded from the covered
19 maintenance provisions of this Agreement, the engineer will immediately notify the County will
20 be subject to Hitachi Data Systems normal rates for service and labor.

21 **9.0 Sheriff's Office OBLIGATION**

22 The County shall:

23 9.1 As soon as possible notify Hitachi Data Systems of any Equipment malfunction requiring
24 maintenance hereunder. Notification should be made through the Hitachi Data Systems Help
25 Desk referenced in Section 1.3 of this Agreement.

26 9.2 Per the Sheriff's Office policies, access to Equipment in order to allow Hitachi Data
27 Systems to provide maintenance will be prescheduled in advance and only with authorized
28 personnel.

9.3 Have a Sheriff's Office representative present or able to respond if needed while the
Equipment is being serviced.

1 **10.0 CHARGES TO THE Sheriff's Office**

2 The Sheriff's Office, upon prior approval, shall be subject to the following charges:

3 10.1 Labor and service charges for labor and service performed which is outside the included
4 services covered in Section 1 above.

5 10.2 Equipment and maintenance not covered by the covered maintenance provisions of
6 Section 5, such as replacement of non-Hitachi Data Systems Equipment.

7 10.3 All maintenance charges are exclusive of applicable federal, state or local. Federal
8 excise taxes, State taxes, or the County sales taxes must not be included in the invoiced
9 amount. The County will furnish a tax exemption certificate upon request.

10 10.4 Hitachi Data Systems shall pay for all supplies and consumables, except media, utilized
11 by in the maintenance of the Equipment.

12 **11.0 UNAUTHORIZED SERVICE OF EQUIPMENT**

13 The repair of the Equipment by anyone other than an authorized engineer of Hitachi Data
14 Systems or a HDS approved contractor will, at Hitachi Data Systems option, because to void
15 this Agreement. If such unauthorized repair occurs and Hitachi Data Systems chooses to void
16 this Agreement then all payments made by the County pursuant to this Agreement shall be
17 forfeited by the County as liquidated damages.

18 **12.0 DISCLAIMER OF WARRANTY**

19 HITACHI DATA SYSTEMS MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED,
20 INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR
21 FITNESS FOR A PARTICULAR USE OR PURPOSE WITH RESPECT TO THE SUBJECT
22 MATTER HEREOF, MAINTENANCE TO BE PERFORMED BY HITACHI DATA SYSTEMS
23 PURSUANT TO THE TERMS HEREOF, OR PARTS TO BE SUPPLIED HEREUNDER.

24 **13.0 FORCE MAJEURE**

25 Hitachi Data Systems shall not be liable to the County for any delay or failure by Hitachi Data
26 Systems to perform its obligations under this Agreement if such delay or failure arises from any
27 cause(s) beyond the reasonable control of Hitachi Data Systems, including but not limited to
28 third party labor disputes, third party strikes, other third party labor or industrial disturbances,
act of God, floods, lightning, earthquakes, shortages of materials, rationing, utility or
communication failures, casualty, war, acts of public enemy, riots, insurrections, embargoes,
blockages, actions, restrictions, new or changed regulations or orders of any governmental
agency or subdivision thereof.

EXHIBIT B

SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest"

The definition above will be utilized for purposes of completing this disclosure form.

INSTRUCTIONS

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

(1) Company Board Member Information:			
Name:		Date:	
Job Title:			
(2) Company/Agency Name and Address:			
(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):			
(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):			
(5) Authorized Signature			
Signature:		Date:	