

## SERVICE AGREEMENT

This Service Agreement ("Agreement") is dated June 24, 2025 and is between BlueDAG, LLC, a California limited liability company ("Contractor"), and the County of Fresno, a political subdivision of the State of California ("County").

### Recitals

A. The County has a need for the renewal of the Americans with Disability Act evaluation and compliance management software hosting, licenses, training, and maintenance for the existing BlueDAG Title II software.

B. The Contractor has provided BlueDAG Title II software licenses, training, and maintenance for the County under a previous agreement.

C. The County and the Contractor now desire to enter into an agreement through a suspension of competition for the continued provision of BlueDAG Title II software licenses, training, maintenance and hosting services.

The parties therefore agree as follows:

### Article 1

#### Contractor's Services

1.1 **Scope of Services.** The Contractor shall perform all of the services provided in Exhibit A to this Agreement.

1.2 **Representation.** The Contractor represents that it is qualified, ready, willing, and able to perform all of the services provided in this Agreement.

1.3 **Compliance with Laws.** The Contractor shall, at its own cost, comply with all applicable federal, state, and local laws and regulations in the performance of its obligations under this Agreement, including but not limited to workers compensation, labor, and confidentiality laws and regulations.

1.4 **License Term.** The term of the Software license (as defined in Exhibit A) is non-perpetual. However, the County shall be entitled to Software updates, upgrades, enhancements, new versions, bug fixes, other improvements to the Software, as and when released by the Contractor to the Contractor's customers, and access to the Software, and to

1 technical assistance relating to the Software, for the Term described in this Agreement. The  
2 Contractor hereby grants to the County, at no additional cost, a royalty-free, non-perpetual non-  
3 transferable license to use the Contractor's Products and Services (as defined in Exhibit A) in  
4 object code only for the County's internal business purposes (and not to process the data of any  
5 other entity or agency, except to the extent the other entity or agency uses the County's public  
6 facing site), as well as to support the number of County databases and the number of named  
7 users of the Contractor.

8       1.5     **Patent Indemnity.** In the event of a claim of alleged infringement of patent rights,  
9 copyright, trade secret rights, or intellectual property rights, to the fullest extent permitted by law,  
10 the Contractor agrees to and shall indemnify, save, hold harmless, and at the County's request,  
11 defend the County (including its officers, officials, agents, employees and volunteers) from and  
12 against any and all demands, costs and expenses, penalties, attorney's fees and court costs,  
13 damages of any nature whatsoever (including, without limitation, injury or damage to or loss or  
14 destruction of property), judgments (including, without limitation, amounts paid in settlement and  
15 amounts paid to discharge judgments), liabilities, claims and losses, suits, actions or  
16 proceedings of every name, kind and description occurring or resulting to the County, out of or  
17 in connection with any claim that is based on the infringement (or assertions of infringement) of  
18 any of patent rights, copyright, trade secret rights, or intellectual property rights with respect to  
19 the Contractor Products and/or Services, including, but not limited to, their materials, designs,  
20 techniques, processes and information supplied or used by the Contractor performing or  
21 providing any portion of the Contractor Products and/or Services. If, in any suit, action,  
22 proceeding or claim relating to the foregoing, a temporary restraining order or preliminary  
23 injunction is granted, the Contractor shall make every reasonable effort to secure the  
24 suspension of the injunction or restraining order. If, in any such suit, action proceeding or claim,  
25 the Contractor Products and/or Services or any part, combination or process thereof, is held to  
26 constitute an infringement and its use is enjoined, the Contractor shall, at its own cost and  
27 without impairing performance requirements of the Contractor Products and/or Services,  
28 immediately (a) pay the reasonable direct out-of-pocket costs and expenses to secure for the

County a license, at no cost to the County, to use such infringing work, replace the infringing work or modify the same so that it becomes non-infringing, and (b) make every reasonable effort to secure for the County a license, at no cost to County, authorizing the County's continued use of the infringing work. If the Contractor is unable to secure such license within a reasonable time, the Contractor, at its own cost and without impairing performance requirements of the Contractor Products and/or Services, shall either replace the affected Contractor Products and/or Services, or part, combination or process thereof, with non-infringing components or parts or modify the same so that they become non-infringing. This section survives the termination of this Agreement.

1.6 **Coordination of Work.** The Contractor shall coordinate all work with the County to minimize any interruptions to the normal operation of County operations, through the appointee as identified in section 2.1 of this Agreement.

1.7 **Infringement.** The Contractor further represents and warrants that it has the right to grant the licenses granted to the County hereunder and that the services provided under this Agreement do not infringe upon or violate the United States patent of rights of any third party and do not infringe upon or violate the copyright, or trade secret right of any third party. This section survives the termination of this agreement.

1.8 **Viruses & Disabling Mechanisms.** The Contractor shall use commercially reasonable, diligent measures to screen the licensed programs provided under this Agreement to avoid introducing, or coding of, any virus or other destructive programming designed to permit unauthorized access or use by third parties to the software installed on County's systems (as defined in Exhibit A), or to disable or damage the County's systems (each, a "Virus"). Without limiting the rights and remedies of the County, in the event any Virus is introduced into the County's systems through any of the licensed programs provided under this Agreement, whether or not such introduction is attributable to the Contractor (including the Contractor's failure to perform its obligations under this Agreement), the Contractor shall, as soon as practicable, use its diligent, commercially reasonable efforts to assist the County in eliminating the effects of the Virus, and if the Virus causes a loss of operational efficiency or loss of data,

and upon the County's request, the Contractor will, diligently work as soon as practicable to contain and remedy the problem and to restore lost data resulting from the introduction of such Virus. The Contractor shall not insert into any of the licensed programs provided in this Agreement any code or other device that would have the effect of disabling or otherwise shutting down all or any portion of the licensed programs. The Contractor shall not invoke such code or other device at any time, including upon expiration or termination of this Agreement for any reason. This section survives the termination of this Agreement.

1.9 **ADA Compliance.** The Contractor's Products and Services shall be in Compliance with the Americans with Disabilities Act of 1990 (ADA) and shall be the sole responsibility of the Contractor. The Contractor shall indemnify, defend, and hold the County (including its officers, agents, employees, and volunteers) harmless from liability of any nature or kind, including damages, costs and expenses (including attorney's fees and costs) arising from the Contractor's non-compliance therewith, including compliance with ADA Section 508 of the Rehabilitation Act of 1973. This section survives the termination of this Agreement.

## Article 2

## County's Responsibilities

2.1 **County Contractor Administrator.** The County appoints the Director of General Services, or his or her designee, as the County's Contract Administrator with full authority to deal with the Contractor in all matters concerning this Agreement.

2.2 **Notice to Proceed.** The County shall issue a Notice to Proceed for each Order or SOW, (as defined in Exhibit A) for which County may desire, and shall issue any subsequent Change Requests, which County may desire, for each Order or SOW, as applicable.

2.3 **Written Acceptance.** The County shall provide a Written Acceptance of all Orders or SOW's, upon the County's determination that the Contractor has fully performed under the Order or SOW, at the end of an Order or SOW, as applicable.

2.4 **Contractor Access.** The County will ensure that the Contractor's consultants have access to the County's network and systems as required during the County's normal business

hours, which is 8AM to 5PM Monday through Friday, except for County holidays or when the Office of the Clerk of the Board of Supervisors is officially closed to the public.

2.5 The County shall follow the Contractor's Software as a Service (SaaS) terms as described in Exhibit F to this agreement.

### **Article 3**

#### **Compensation, Invoices, and Payments**

3.1 **Compensation.** The County agrees to pay, and the Contractor agrees to receive, compensation for the performance of its services under this Agreement as described in Exhibit B to this Agreement.

3.2 **Maximum Compensation.** The total maximum compensation payable to the Contractor during the initial term of this Agreement is \$314,326.32. If this Agreement is extended for the first additional year as provided in Article 4, below, the total maximum compensation payable to the Contractor will increase by \$78,581.34. If this Agreement is extended for the second additional year as provided in Article 4, below, the total maximum compensation payable to the Contractor for the Contractor Products and Services will increase by an additional \$78,581.34. The total maximum compensation payable to the Contractor under this Agreement for the entire potential five-year term is \$471,489. In the event the total maximum compensation amount in the Initial Term, Year 4, and/or Year 5 is not fully expended, the remaining unspent funding amounts shall roll over to each subsequent term's established maximum compensation.

The Contractor acknowledges that the County is a local government entity and does so with notice that the County's powers are limited by the California Constitution and by State law, and with notice that the Contractor may receive compensation under this Agreement only for services performed according to the terms of this Agreement and while this Agreement is in effect, and subject to the maximum amount payable under this section. The Contractor further acknowledges that County employees have no authority to pay the Contractor except as expressly provided in this Agreement.

1       **3.3 Contractor Products and Services.** The Contractor Products and Services are  
2 purchased by the County as subscriptions during an Order Term (as defined in Exhibit A)  
3 specified in each Order, SOW, or Exhibit. Additional Contractor Products and Services, which  
4 may include but is not limited to, licenses, modules, features, may be added, during an Order  
5 Term (as described in section 3.5 below), to the System Software as determined necessary by  
6 the Contract Administrator.

7       **3.4 Annual Fees.** Product setup and annual fees (as identified in Exhibit B) are due for  
8 the first year of the Agreement, and then annually thereafter, and at the beginning of any  
9 extended term, within 45 days of receipt of invoice. Exhibit B of this Agreement identifies the list  
10 of Products and Services used in this Agreement. Services supporting the Contractor's products  
11 shall be paid annually commencing upon the completion of the implementation of the products,  
12 or their being ready for the County's use.

13       **3.5 Ordering Products and Services.** The Parties may execute one or more Order or  
14 SOW related to the sale and purchase of the Contractor's Products and Services. Each Order or  
15 SOW will include an itemized list of the Contractor Products and Services as well as the Order  
16 Term for such Contractor Products and Services. Each Order or SOW must, generally, be  
17 signed by the Parties. Each Order or SOW shall be governed by this Agreement regardless of  
18 any pre-printed legal terms on each Order or SOW, and by this reference is incorporated herein.

19       **3.6 Invoices.** The Contractor shall submit annual invoices referencing the provided  
20 agreement number to the County of Fresno, General Services Department, Attention: Facility  
21 Services Manager, 4590 E Cesar Chavez Blvd, Fresno, CA 93702,  
22 [FacilitiesAP@fresnocountyca.gov](mailto:FacilitiesAP@fresnocountyca.gov). The Contractor shall submit each invoice within 60 days after  
23 the month in which the Contractor performs services and in any case within 60 days after the  
24 end of the term or termination of this Agreement.

25       **3.7 Payment.** The County shall pay each correctly completed and timely submitted  
26 invoice within 45 days after receipt. The County shall remit any payment to the Contractor's  
27 address specified in the invoice.  
28

3.8 **Incidental Expenses.** The Contractor is solely responsible for all of its costs and expenses that are not specified as payable by the County under this Agreement.

#### Article 4

##### Term of Agreement

4.1 **Term.** This Agreement is effective on July 1, 2025, and terminates on June 30, 2028, except as provided in section 4.2, "Extension," or Article 6, "Termination and Suspension," below.

4.2 **Extension.** The term of this Agreement may be extended for no more than two, one-year periods only upon the written approval of both parties at least 30 days before the first day of the next one-year extension period. The Director of General Services, or his or her designee, is authorized to sign the written approval on behalf of the County based on the Contractor's satisfactory performance. The extension of this Agreement by the County is not a waiver or compromise of any default or breach of this Agreement by the Contractor existing at the time of the extension whether or not known to the County.

#### Article 5

##### Notices

5.1 **Contact Information.** The persons and their addresses having authority to give and receive notices provided for or permitted under this Agreement include the following:

**For the County:**

Director of General Services  
County of Fresno  
333 W. Pontiac Way  
Clovis, CA 93612  
[isdcontracts@fresnocountyca.gov](mailto:isdcontracts@fresnocountyca.gov)

**For the Contractor:**

Managing Partner  
Chris James  
2999 Gold Canal Drive  
Rancho Cordova, CA, 95670  
[procurement@bluedag.com](mailto:procurement@bluedag.com)

5.2 **Change of Contact Information.** Either party may change the information in section 5.1 by giving notice as provided in section 5.3.

5.3 **Method of Delivery.** Each notice between the County and the Contractor provided for or permitted under this Agreement must be in writing, state that it is a notice provided under this Agreement, and be delivered either by personal service, by first-class United States mail, by an overnight commercial courier service, or by Portable Document Format (PDF) document attached to an email.

(A) A notice delivered by personal service is effective upon service to the recipient.

(B) A notice delivered by first-class United States mail is effective three County business days after deposit in the United States mail, postage prepaid, addressed to the recipient.

(C) A notice delivered by an overnight commercial courier service is effective one County business day after deposit with the overnight commercial courier service, delivery fees prepaid, with delivery instructions given for next day delivery, addressed to the recipient.

(D) A notice delivered by PDF document attached to an email is effective when transmission to the recipient is completed (but, if such transmission is completed outside of County business hours, then such delivery is deemed to be effective at the next beginning of a County business day), provided that the sender maintains a machine record of the completed transmission.

5.4 **Claims Presentation.** For all claims arising from or related to this Agreement, nothing in this Agreement establishes, waives, or modifies any claims presentation requirements or procedures provided by law, including the Government Claims Act (Division 3.6 of Title 1 of the Government Code, beginning with section 810).

## Article 6

## Termination and Suspension

6.1 **Termination for Non-Allocation of Funds.** The terms of this Agreement are contingent on the approval of funds by the appropriating government agency. If sufficient funds are not allocated, then the County, upon at least 30 days' advance written notice to the Contractor, may:



- 1 (A) Modify the services provided by the Contractor under this Agreement; or  
2 (B) Terminate this Agreement.

3 **6.2 Termination for Breach.**

4 (A) Upon determining that a breach (as defined in paragraph (C) below) has  
5 occurred, the County may give written notice of the breach to the Contractor. The written  
6 notice may suspend performance under this Agreement, and must provide at least 30  
7 days for the Contractor to cure the breach.

8 (B) If the Contractor fails to cure the breach to the County's satisfaction within the  
9 time stated in the written notice, the County may terminate this Agreement immediately.

10 (C) For purposes of this section, a breach occurs when, in the determination of the  
11 County, the Contractor has:

- 12 (1) Obtained or used funds illegally or improperly;  
13 (2) Failed to comply with any part of this Agreement;  
14 (3) Submitted a substantially incorrect or incomplete report to the County; or  
15 (4) Improperly performed any of its obligations under this Agreement;

16 (D) For purposes of this section, a breach occurs when, in the determination of the  
17 Contractor:

18 (1) The SaaS Services are being used in violation of law or the Agreement by  
19 County;

20 (2) The County's use of the SaaS Services interferes with the normal operations  
21 of the software or other customer's use of the SaaS Service;

22 (3) There is an attack on the Contractor's software or any portion thereof or the  
23 County's account is accessed or manipulated by a third party without the County's  
24 consent or in violation hereof, or there is another event for which the Contractor  
25 reasonably believes suspension of the SaaS Services is necessary to protect the  
26 Contractor's network or the Contractor's other customers;  
27  
28

(4) The County's payment of any amount due hereunder is overdue and the County fails to pay the overdue amount within fifteen days of the Contractor's written notice (e-mail notice to the County's account representative shall suffice);

(5) The County breaches any obligation relating to the Contractor's or any third party's intellectual property rights. The Contractor may immediately suspend the SaaS Services or terminate this Agreement for its convenience if (i) the Contractor becomes aware of what it, in its sole discretion, deems a credible claim that the SaaS Services infringe upon the intellectual property rights of a third party or (ii) required to do so by law. In each case the Contractor will give the County advance notice of pending suspension or termination of at least seven days, unless the Contractor determines, in its reasonable discretion, that no notice or shorter notice is necessary to protect the Contractor, its customers, or others.

**6.3 Termination without Cause.** In circumstances other than those set forth above, the County may terminate this Agreement by giving at least 30 days advance written notice to the Contractor.

**6.4 No Penalty or Further Obligation.** Any termination of this Agreement by the County under this Article 6 is without penalty to or further obligation of the County.

**6.5 County's Rights upon Termination.** Upon termination for breach under this Article 6, the County may demand repayment by the Contractor of any monies disbursed to the Contractor under this Agreement that, in the County's sole judgment, were not expended in compliance with this Agreement. The Contractor shall promptly refund all such monies upon demand. This section survives the termination of this Agreement.

**6.6 Contractor's Rights upon Termination.** Upon expiration or prior termination of this Agreement, all rights granted herein shall revert back to the Contractor. All access to and use of the SaaS Services by County Users must then cease and the Contractor shall make available to the County any of the County's data or materials for thirty days following such termination.

1 **Article 7**

2 **Independent Contractor**

3 7.1 **Status.** In performing under this Agreement, the Contractor, including its officers,  
4 agents, employees, and volunteers, is at all times acting and performing as an independent  
5 contractor, in an independent capacity, and not as an officer, agent, servant, employee, joint  
6 venturer, partner, or associate of the County.

7 7.2 **Verifying Performance.** The County has no right to control, supervise, or direct the  
8 manner or method of the Contractor's performance under this Agreement, but the County may  
9 verify that the Contractor is performing according to the terms of this Agreement.

10 7.3 **Benefits.** Because of its status as an independent contractor, the Contractor has no  
11 right to employment rights or benefits available to County employees. The Contractor is solely  
12 responsible for providing to its own employees all employee benefits required by law. The  
13 Contractor shall save the County harmless from all matters relating to the payment of  
14 Contractor's employees, including compliance with Social Security withholding and all related  
15 regulations.

16 7.4 **Services to Others.** The parties acknowledge that, during the term of this  
17 Agreement, the Contractor may provide services to others unrelated to the County.

18 **Article 8**

19 **Indemnity and Defense**

20 8.1 **Indemnity.** The Contractor shall indemnify and hold harmless and defend the  
21 County (including its officers, agents, employees, and volunteers) against all claims, demands,  
22 injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and  
23 liabilities of any kind to the County, the Contractor, or any third party that arise from or relate to  
24 the performance or failure to perform by the Contractor (or any of its officers, agents,  
25 subcontractors, or employees) under this Agreement. The County may conduct or participate in  
26 its own defense without affecting the Contractor's obligation to indemnify and hold harmless or  
27 defend the County.

28 8.2 **Survival.** This Article 8 survives the termination of this Agreement.

1 **Article 9**

2 **Insurance**

3 9.1 The Contractor shall comply with all the insurance requirements in Exhibit D to this  
4 Agreement.

5 **Article 10**

6 **Ownership of Data**

7 10.1 **Ownership of Data.** The parties acknowledge and agree that all the County's data  
8 (Data), is and shall remain the exclusive property of the County. The Contractor acknowledges  
9 that in performing its obligations under the Agreement it may have access to the County's  
10 networks and Data. The Contractor shall use and access such Data only as necessary for the  
11 purpose of providing the services and supporting the Software as agreed.

12 10.2 **Ownership of System Software.** The parties acknowledge and agree that, as  
13 between the Contractor and the County, title and full ownership of all rights in and to the System  
14 Software, System Documentation (as defined in Exhibit A), and all other materials provided to  
15 the County by the Contractor under the terms of this Agreement shall remain with the  
16 Contractor. The County will take reasonable steps to protect trade secrets (as defined in  
17 Government Code Section 7924.510(f)) of the System Software and System Documentation,  
18 and which are identified as such by the Contractor. The County may not disclose or make  
19 available to third parties the System Software or System Documentation or any portion thereof,  
20 unless otherwise required by court order. The Contractor shall own all right, title and interest in  
21 and to all corrections, modifications, enhancements, programs, and work product conceived,  
22 created or developed, alone or with the County or others, as a result of or related to the  
23 performance of this Agreement, including all proprietary rights therein and based thereon.  
24 Except and to the extent expressly provided herein, the Contractor does not grant to the County  
25 any right or license, express or implied, in or to the System Software and System  
26 Documentation or any of the foregoing. The parties acknowledge and agree that, as between  
27 the Contractor and the County, full ownership of all rights in and to all County data, whether in  
28

magnetic or paper form, including without limitation printed output from the System, are the exclusive property of the County.

**10.3 Contractor Intellectual Property Rights.** The Contractor shall grant a non-exclusive, non-transferrable, and non-perpetual license, at no additional cost, to the County to use the Contractor Products and Services to the extent allowed in the relevant Order or SOW (Permitted Use). The County may reproduce, modify or create derivative works for its own use, public display, and use any and all of the Contractor's copyrights in the homepage layout wireframe, sitemap, draft homepage design concept(s) interior page layouts (collectively, the "Contractor Designs") embodied in the County's website and intranet, which are prepared or caused to be prepared by the Contractor under this Agreement. All rights not licensed are reserved to the Contractor and no rights may be implied. The Contractor retains all intellectual property rights in the Software, and the County agrees to implement software protection measures designed to prevent unauthorized use and copying of the Software.

10.4 **Data Sources.** Data uploaded into the Contractor Products and Services must be brought in from County sources (interactions with end users and opt-in contact lists). The County cannot upload purchased contact information into the Contractor Products and Services without the Contractor's written permission, which shall not be unreasonably withheld or delayed, and professional services support for list cleansing. The Contractor understands and acknowledges, however, that the County is a government agency and intends to use the Contractor for the purpose of publishing information required by law to be available to the public.

## Article 11

## Confidentiality & Data Security

11.1 **Confidentiality.** The County and the Contractor may have access to information that the other considers to be a trade secret as defined in California Government Code section 7924.510(f).

11.2 Each party shall use the other's Information only to perform its obligations under, and for the purposes of, the Agreement. Neither party shall use the Information of the other Party for the benefit of a third party. Each Party shall maintain the confidentiality of all Information in the

1 same manner in which it protects its own information of like kind, but in no event shall either  
2 Party take less than reasonable precautions to prevent the unauthorized disclosure or use of the  
3 Information.

4 11.3 The Contractor shall not disclose the County's data except to any third parties as  
5 necessary to operate the Contractor Products and Services (provided that the Contractor  
6 hereby grants to the County, at no additional cost, a non-perpetual, noncancelable, worldwide,  
7 nonexclusive license to utilize any data, on an anonymous or aggregate basis only, that arises  
8 from the use of the Contractor Products and Services by the Contractor, whether disclosed on,  
9 subsequent to, or prior to the Effective Date, to improve the functionality of the Contractor  
10 Products and Services and any other legitimate business purpose, subject to all legal  
11 restrictions regarding the use and disclosure of such information).

12 11.4 Upon termination of the Agreement, or upon a Party's request, each Party shall  
13 return to the other all Information of the other in its possession. All provisions of the Agreement  
14 relating to confidentiality, ownership, and limitations of liability shall survive the termination of  
15 the Agreement.

16 11.5 All services performed by the Contractor shall be in strict conformance with all  
17 applicable Federal, State of California, and/or local laws and regulations relating to  
18 confidentiality, including but not limited to, California Civil Code, California Welfare and  
19 Institutions Code, California Health and Safety Code, California Code of Regulations, and the  
20 Code of Federal Regulations.

21 11.6 **Data Security.** The Contractor shall be responsible for the privacy and security  
22 safeguards, as identified in Exhibit E, entitled "Data Security." To the extent required to carry out  
23 the assessment and authorization process and continuous monitoring, to safeguard against  
24 threats and hazards to the security, integrity, and confidentiality of any County data collected  
25 and stored by the Contractor, the Contractor shall afford the County access as necessary at the  
26 Contractor's reasonable discretion, to the Contractor's facilities, installations, and technical  
27 capabilities. If new or unanticipated threats or hazards are discovered by either the County or  
28

the Contractor, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party.

## **Article 12**

### **Inspections, Audits, and Public Records**

**12.1 Inspection of Documents.** The Contractor shall make available to the County, and the County may examine at any time during Business Hours and as often as the County deems necessary, all of the Contractor's records and data with respect to the matters covered by this Agreement, excluding attorney-Contractor privileged communications. The Contractor shall, upon request by the County, permit the County to audit and inspect all of such records and data to ensure the Contractor's compliance with the terms of this Agreement.

**12.2 State Audit Requirements.** If the compensation to be paid by the County under this Agreement exceeds \$10,000, the Contractor is subject to the examination and audit of the California State Auditor, as provided in Government Code section 8546.7, for a period of three years after final payment under this Agreement. This section survives the termination of this Agreement.

**12.3 Public Records.** The County is not limited in any manner with respect to its public disclosure of this Agreement or any record or data that the Contractor may provide to the County. The County's public disclosure of this Agreement or any record or data that the Contractor may provide to the County may include but is not limited to the following:

(A) The County may voluntarily, or upon request by any member of the public or governmental agency, disclose this Agreement to the public or such governmental agency.

(B) The County may voluntarily, or upon request by any member of the public or governmental agency, disclose to the public or such governmental agency any record or data that the Contractor may provide to the County, unless such disclosure is prohibited by court order.

1 (C) This Agreement, and any record or data that the Contractor may provide to the  
2 County, is subject to public disclosure under the Ralph M. Brown Act (California  
3 Government Code, Title 5, Division 2, Part 1, Chapter 9, beginning with section 54950).

4 (D) This Agreement, and any record or data that the Contractor may provide to the  
5 County, is subject to public disclosure as a public record under the California Public  
6 Records Act (California Government Code, Title 1, Division 10, Chapter 3, beginning  
7 with section 7920.200) ("CPRA")

8 (E) This Agreement, and any record or data that the Contractor may provide to the  
9 County, is subject to public disclosure as information concerning the conduct of the  
10 people's business of the State of California under California Constitution, Article 1,  
11 section 3, subdivision (b).

12 (F) Any marking of confidentiality or restricted access upon or otherwise made with  
13 respect to any record or data that the Contractor may provide to the County shall be  
14 disregarded and have no effect on the County's right or duty to disclose to the public or  
15 governmental agency any such record or data.

16 **12.4 Public Records Act Requests.** If the County receives a written or oral request  
17 under the CPRA to publicly disclose any record that is in the Contractor's possession or control,  
18 and which the County has a right, under any provision of this Agreement or applicable law, to  
19 possess or control, then the County may demand, in writing, that the Contractor deliver to the  
20 County, for purposes of public disclosure, the requested records that may be in the possession  
21 or control of the Contractor. Within five business days after the County's demand, the  
22 Contractor shall (a) deliver to the County all of the requested records that are in the Contractor's  
23 possession or control, together with a written statement that the Contractor, after conducting a  
24 diligent search, has produced all requested records that are in the Contractor's possession or  
25 control, or (b) provide to the County a written statement that the Contractor, after conducting a  
26 diligent search, does not possess or control any of the requested records. The Contractor shall  
27 cooperate with the County with respect to any County demand for such records. If the  
28 Contractor wishes to assert that any specific record or data is exempt from disclosure under the



1 CPRA or other applicable law, it must deliver the record or data to the County and assert the  
2 exemption by citation to specific legal authority within the written statement that it provides to  
3 the County under this section. The Contractor's assertion of any exemption from disclosure is  
4 not binding on the County, but the County will give at least 10 days' advance written notice to  
5 the Contractor before disclosing any record subject to the Contractor's assertion of exemption  
6 from disclosure. The Contractor shall indemnify the County for any court-ordered award of costs  
7 or attorney's fees under the CPRA that results from the Contractor's delay, claim of exemption,  
8 failure to produce any such records, or failure to cooperate with the County with respect to any  
9 County demand for any such records.

## 10 **Article 13**

### 11 **Disclosure of Self-Dealing Transactions**

12 13.1 **Applicability.** This Article 13 applies if the Contractor is operating as a corporation,  
13 or changes its status to operate as a corporation.

14 13.2 **Duty to Disclose.** If any member of the Contractor's board of directors is party to a  
15 self-dealing transaction, he or she shall disclose the transaction by completing and signing a  
16 "Self-Dealing Transaction Disclosure Form" (Exhibit C to this Agreement) and submitting it to  
17 the County before commencing the transaction or immediately after.

18 13.3 **Definition.** "Self-dealing transaction" means a transaction to which the Contractor is  
19 a party and in which one or more of its directors, as an individual, has a material financial  
20 interest.

## 21 **Article 14**

### 22 **General Terms**

23 14.1 **Modification.** Except as provided in Article 6, "Termination and Suspension," this  
24 Agreement may not be modified, and no waiver is effective, except by written agreement signed  
25 by both parties. The Contractor acknowledges that County employees have no authority to  
26 modify this Agreement except as expressly provided in this Agreement.

27 14.2 **Non-Assignment.** Neither party may assign its rights or delegate its obligations  
28 under this Agreement without the prior written consent of the other party.

1       14.3   **Governing Law.** The laws of the State of California govern all matters arising from  
2 or related to this Agreement.

3       14.4   **Jurisdiction and Venue.** This Agreement is signed and performed in Fresno  
4 County, California. The Contractor consents to California jurisdiction for actions arising from or  
5 related to this Agreement, and, subject to the Government Claims Act, all such actions must be  
6 brought and maintained in Fresno County.

7       14.5   **Severability.** If anything in this Agreement is found by a court of competent  
8 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in  
9 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of  
10 this Agreement with lawful and enforceable terms intended to accomplish the parties' original  
11 intent.

12       14.6   **Nondiscrimination.** During the performance of this Agreement, the Contractor shall  
13 not unlawfully discriminate against any employee or applicant for employment, or recipient of  
14 services, because of race, religious creed, color, national origin, ancestry, physical disability,  
15 mental disability, medical condition, genetic information, marital status, sex, gender, gender  
16 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to  
17 all applicable State of California and federal statutes and regulation.

18       14.7   **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation  
19 of the Contractor under this Agreement on any one or more occasions is not a waiver of  
20 performance of any continuing or other obligation of the Contractor and does not prohibit  
21 enforcement by the County of any obligation on any other occasion.

22       14.8   **Entire Agreement.** This Agreement, including its exhibits, is the entire agreement  
23 between the Contractor and the County with respect to the subject matter of this Agreement,  
24 and it supersedes all previous negotiations, proposals, commitments, writings, advertisements,  
25 publications, and understandings of any nature unless those things are expressly included in  
26 this Agreement. If there is any inconsistency between the terms of this Agreement without its  
27 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving  
28

precedence first to the terms of this Agreement without its exhibits, and then to the terms of the exhibits.

14.9 **No Third-Party Beneficiaries.** This Agreement does not and is not intended to create any rights or obligations for any person or entity except for the parties.

14.10 **Authorized Signature.** The Contractor represents and warrants to the County that:

(A) The Contractor is duly authorized and empowered to sign and perform its obligations under this Agreement.

(B) The individual signing this Agreement on behalf of the Contractor is duly authorized to do so and his or her signature on this Agreement legally binds the Contractor to the terms of this Agreement.

14.11 **Electronic Signatures.** The parties agree that this Agreement may be executed by electronic signature as provided in this section.

(A) An "electronic signature" means any symbol or process intended by an individual signing this Agreement to represent their signature, including but not limited to (1) a digital signature; (2) a faxed version of an original handwritten signature; or (3) an electronically scanned and transmitted (for example by PDF document) version of an original handwritten signature.

(B) Each electronic signature affixed or attached to this Agreement (1) is deemed equivalent to a valid original handwritten signature of the person signing this Agreement for all purposes, including but not limited to evidentiary proof in any administrative or judicial proceeding, and (2) has the same force and effect as the valid original handwritten signature of that person.

(C) The provisions of this section satisfy the requirements of Civil Code section 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3, Part 2, Title 2.5, beginning with section 1633.1).

(D) Each party using a digital signature represents that it has undertaken and satisfied the requirements of Government Code section 16.5, subdivision (a),

1 paragraphs (1) through (5), and agrees that each other party may rely upon that  
2 representation.

3 (E) This Agreement is not conditioned upon the parties conducting the transactions  
4 under it by electronic means and either party may sign this Agreement with an original  
5 handwritten signature.

6 14.12 **Counterparts.** This Agreement may be signed in counterparts, each of which is an  
7 original, and all of which together constitute this Agreement.

8 14.13 **Construction.** The final form of this Agreement is the result of the parties' combined  
9 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be  
10 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement  
11 against either party.

12 14.14 **Days.** Unless otherwise specified, "days" means calendar days.

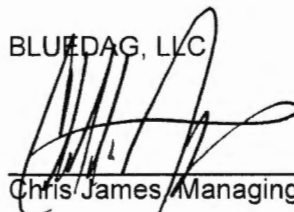
13 14.15 **Headings.** The headings and section titles in this Agreement are for convenience  
14 only and are not part of this Agreement.

15 [SIGNATURE PAGE FOLLOWS]  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

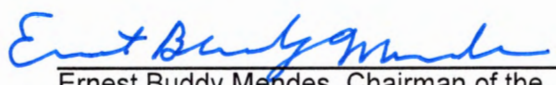
1 The parties are signing this Agreement on the date stated in the introductory clause.

2 BLUE DAG, LLC


COUNTY OF FRESNO

3  
4  
5  Chris James, Managing Partner

6 2999 Gold Canal Dr.  
7 Rancho Cordova, CA 95670

8   
9 Ernest Buddy Mendes, Chairman of the  
10 Board of Supervisors of the County of Fresno

11 **Attest:**  
12 Bernice E. Seidel  
13 Clerk of the Board of Supervisors  
14 County of Fresno, State of California

15 By:   
16 Deputy

17 For accounting use only:

18 Org No.: 8935  
19 Account No.: 7296  
20 Fund No.: 1045  
21 Subclass No.: 10000  
22  
23  
24  
25  
26  
27  
28

## Exhibit A

### Scope of Work

1. **Definitions.** In addition to the terms defined elsewhere in this Agreement, the following terms shall have the meanings specified:

Change Control Process is defined as the process used by the County's Information Technology Department to inform County staff of new or updated production use systems.

Products and Services – is defined as the products and services made available to the County pursuant to this Agreement, which may include the Contractor Products and Services accessible for use by the County on a subscription basis ("Software-as-a-Service" or "SaaS"), the Contractor professional services, content from any professional services or other required equipment components or other required hardware, as specified in each Order or SOW.

License is defined as the license granted under this Agreement, and the rights and obligations that it creates under the laws of the United States of America and the State of California, including without limitation, copyright and intellectual property law.

Support is defined as the ongoing support and maintenance services performed by the Contractor related to the Contractor Products and Services as specified in the Agreement.

System is defined as the System Software and System Documentation, collectively, including all modifications and enhancements.

System Documentation is defined as the documentation relating to the System Software, including all manuals, reports, brochures, sample runs, specifications, and other materials provided by the Contractor in connection with the System Software.

System Software is defined as the Contractors Products and Services provided and hosted by the Contractor. System Software does not include operating system software, or any other third-party software.

System Software Maintenance and Support and Support is defined as software hosting for System Software, regular software updates to System Software, and support provided for System Software in case of errors, mistakes, or other technical difficulties.

Malicious Code is defined as any code, program, or sub-program the knowing or

## Exhibit A

intended purpose or effect of which is to damage or maliciously interfere with the operation of software or any system such as the System or to halt, disable, or interfere with the operation of any software or system such as the System, or (ii) any device, method, or token that permits any person to circumvent without authorization the normal security of any software or system such as the System.

2. **Warranties & Disclaimers.** The Contractor warrants that all services performed under this Agreement will conform in all aspects with the requirements of this Agreement and their specifications. The Contractor warrants that it takes all precautions that are standard in the industry, in California, to increase the likelihood of a successful performance for the Contractor Products and Services.

Except as provided in herein provided, each Party hereby disclaims any and all other warranties of any nature whatsoever whether oral and written, express or implied, including, without limitation, the implied warranties of merchantability, title, non-infringement, and fitness for a particular purpose. The Contractor does not warrant that the Contractor Products and Services will meet the County's requirements.

3. **Documentation.** The Contractor shall provide to the County System Documentation, which shall consist of electronic media files. The electronic media files must be printable using PC software normally available at the County. The Contractor shall provide new System Documentation corresponding to all new Software Upgrades. The County may print additional copies of all documentation. All System Documentation is to be used by the County only for the purposes identified within this Agreement.

4. **Technical Information.** The Contractor will provide technical information to the County. Such information may cover areas regarding the software discussed in this Agreement, third party software, and other matters considered relevant to the County by the Contractor. Technical information will be provided at the discretion of the Contractor but will not be unreasonably withheld.

5. **Operating System Updates.** The application must run on a County operating system that is consistently and currently supported by the operating system vendor. Applications under

## Exhibit A

1 maintenance are expected to always be current in regards to the required Contractor operating  
2 system. No outdated or unsupported County operating system will be implemented on the  
3 production network. The Contractor shall keep their software current in order to operate in this  
4 environment. Patches may include critical operating system updates and security patches.

5       **6. Adhere to Change Control Process.** The Contractor employs a procedure to  
6 implement updates, upgrades, and version releases to a system that is in production use. This  
7 forum allows the Contractor to inform the County of upcoming changes to a production system.  
8 The Contractor must inform the County a minimum of one week prior to any planned, non-  
9 emergency changes so that the Change Control Process may be followed.

10       **7. Storage and Sending.** If any services specified in this Agreement are used to store  
11 and/or send Confidential Information, the Contractor must be notified in writing, in advance of  
12 the storage or sending. Should the County provide such notice, the County must ensure that  
13 Confidential Information is stored behind a secure interface and that the Contractor Products  
14 and Services be used only to notify people of updates to the information that can be accessed  
15 after authentication against a secure interface managed by the County.

16       **8. Support Services.** Support Services are defined as technical support, account  
17 management, and education and training. The Contractor will support day-to-day operation of  
18 the System as follows. Basic support related to standard Contractor Products and Services is  
19 included within the fees paid during the Order Term. The Contractor may update its Support  
20 obligations under this Agreement, so long as the functionality purchased by the County is not  
21 materially diminished. An emergency is defined as the Contractor's services described in this  
22 Agreement being down for more than ten minutes. Basic support is included with the  
23 subscription at no additional cost. Additional professional services from the Contractor are  
24 available at an additional cost and can be found in Exhibit B. Up to two hours per paid User  
25 month. Unused hours are not carried over to the next month. Standard support will be available  
26 from 9 a.m. to 4 p.m. (Pacific Standard Time), Monday through Friday, excluding California  
27 State holidays and Federal Holidays. Support is provided via email and phone. A ticketing  
28



## Exhibit A

system is used internally by the Contractor's support group to track and ensure resolution of the County's support needs.

- Daily, Monthly, and Annual Backups of the County's BlueDAG data
- BlueDAG University Webinars, Onboarding Webinars up to 2 hours/month per User

9. **Downtime.** Downtime shall be defined as System non-availability due to System Software error, malfunction, or due to System Software Maintenance and Support activity other than in accordance with the scheduling parameters set forth in this Agreement. Examples of Downtime include, without limitation, the County and public cannot access the System for reasons within the Contractor's Control or any functional Component of the System or Interference is not available and is within the Contractor's Control. The County requires that there be no unscheduled Downtime for routine System Software Maintenance and Support of the Application Software. The County will accept occasional scheduled Downtime, not to exceed, four hours, for significant non-routine Updates and maintenance to be scheduled by the Contractor. Routine System Software Maintenance and Support includes such tasks as major System Software version Updates. The Contractor shall use its best efforts to keep scheduled Downtime for non-routine maintenance to a minimum (99.9% up time guarantee).

10. **Data Sources.** Data uploaded into the Contractor Products and Services must be brought in from County sources (interactions with end users and opt-in contact lists). The County cannot upload purchased contact information into the Contractor Products and Services without the Contractor's written permission and professional services support for list cleansing. The Contractor certifies that it will not sell, retain, use, or disclose any personal information provided by the County for any purpose other than retaining, using, or disclosing such personal information for the specific purpose of performing the services outlined within this Agreement.

11. **Passwords.** Passwords are not transferable to any third party. The County is responsible for keeping all passwords secure and all use of the Contractor products and services accessed through the County's passwords.

## Exhibit A

12. **County Feedback.** The County will provide feedback to the Contractor with any suggestion, enhancement, request, recommendation, correction or other feedback provided by the County relating to the use of the Contractor Products and Services. The Contractor may use such submissions as it deems appropriate in its sole discretion.

13. **Escalation Procedure.** In the event the Contractor has been unable to provide either a permanent or a mutually acceptable temporary resolution within the applicable timeframes set forth above, the Contractor shall initiate the following escalation procedures.

14. **Third Party Disclaimer – Closed Captioning and Meeting Services.** The County and the Contractor may agree that a third party will provide closed captioning, transcription services, or other meeting services under this Agreement. In such case, the County expressly understands that the third party is an independent contractor and not an agent or employee of the Contractor. The Contractor is not liable for acts performed by such an independent third party.

15. **Product Descriptions.** BlueDAG Title II Complete: 6-10 Active User with options for customization and importing of legacy data for the County of Fresno, to include the following:

- Deployment of a BlueDAG Title II Complete – 6-10 Active Users server instance within Vendor datacenter.
  - Hosting of BlueDAG package
  - Daily, Monthly, and Annual Backups of Entity BlueDAG data
  - Network and power monitoring
- Creation of County-identified User accounts
- Training of County staff on included features of the BlueDAG Title II Government SaaS package via webinar, teleconference, screen sharing events, and/or onsite training (optional) at Entity location Oakland, CA for onboarding:
  - Activity Training:
    - Grievances
    - Evaluations
    - Projects

## Exhibit A

- Notices
- Transition Plan
- Self-Evaluations
- Fast Finder
- Mobile Training
- Report Training
  - Grievance Report
  - Evaluation Report
  - Annual Grievance Report
  - Table CSV Exports
- Administration Training
  - County Details
  - My Users
  - My Jurisdictions
  - My Requesters
  - My Departments
  - Facility Owners
  - Letters
  - Custom Standards (Post Implementation)
  - Custom Findings (Post Implementation)
  - Report Titles

Ongoing updates of Non-Custom Findings, and Non-Custom Default Checklists.

16. **Uptime Service Commitment:** The Contractor will use commercially reasonable efforts to make the SaaS Services each available with a Monthly Uptime Percentage (as described below) of at least 98% (the “Service Commitment”). If the Monthly Uptime Percentage falls below 98%, the Contractor shall refund the County one prorates month of the annual subscription cost. If the Monthly Uptime Percentage falls below 98% in two months of any 12-month period, you may consider this a material breach by the Contractor and

## Exhibit A

1 terminate the contract in accordance with Article 6 of the Agreement. Monthly Uptime  
2 Percentage is calculated by subtracting from 100% the percentage of hours during the month in  
3 which the BlueDAG SaaS Services were unavailable to the County. "Unavailable" means the  
4 SaaS Services were not available to you in material conformity with the specification thereof  
5 and terms of the BlueDAG Agreement for a continuous period of ten minutes or longer. You are  
6 responsible for logging and reporting any and all incidents of unavailability of the BlueDAG  
7 SaaS Services to BlueDAG within forty-eight hours of the occurrence of said unavailability. Any  
8 reported unavailability is subject to verification by the Contractor before credit will be issued.  
9 The Calculation of Monthly Uptime Percentage will exclude period of unavailability of BlueDAG  
10 SaaS Services caused by the following:

- 11 • Subscriber breach of BlueDAG Agreement
- 12 • Suspension or termination provided in the BlueDAG Agreement
- 13 • Factors outside of our reasonable control, including any force majeure event or  
14 Internet access or related problems beyond the demarcation point of BlueDAG  
15 platform
- 16 • Any actions or inactions of you or any third party, including failure to  
17 acknowledge a recovery
- 18 • The County equipment, software or other technology and/or third-party  
19 equipment, software or other technology (other than third party equipment within  
20 the Contractor's direct control)
- 21 • Planned Downtime, of which the Contractor gives the County at least twenty-four  
22 hours' prior notice (via e-mail to the account representative or via a conspicuous  
23 on-screen message in the SaaS Service. The Contractor will use commercially  
24 reasonable efforts to schedule all Planned Downtime during the hours, U.S.  
25 Pacific Time 7:00 p.m. Friday to Saturday 8:00 a.m. and 7:00 p.m. Saturday to  
26 Sunday 8:00 a.m. and 7:00 p.m. Sunday to 3:00 a.m. Monday, U.S. Pacific Time,  
27 and if not possible during the foregoing times, Planned Downtime will be 11:00  
28 p.m. to 5:00 a.m. other days, except downtime for major SaaS Service releases

## Exhibit A

and maintenance, which the Contractor will use commercially reasonable efforts to limit the number of major Services releases to twelve annually. In no event shall Planned Downtime exceed thirty-six hours in any calendar quarter.

17. **Users and Use:** The SaaS Services may be accessed and used only by the number of Users specified in Section 15 Product Subscription in exchange for payment of the fee corresponding to such Users. During the Agreement Term the Contractor shall provide to the County access to SaaS Services if, and only to the extent that, any license thereof is necessary, a limited revocable, non-transferable, non-assignable license for authorized Users to use the SaaS Services during the Agreement Term, subject to the provisions of the Agreement.

## Exhibit B

### Compensation

The Contractor will be compensated for the Contractor's Products and Services under this Agreement as provided in this Exhibit B. The Contractor is not entitled to any compensation except as expressly provided in this Exhibit B.

**1. Fees.** The County agrees to pay all fees, costs, and other amounts as specified in each Order or SOW approved by the County.

**2. Renewing Subscription Fee.**

**BlueDAG Government Complete Subscription:**

Includes training and support for up to 10 administrative users

YEAR	PRODUCT	TOTAL
YEAR 1	Government Complete Subscription & Maintenance	\$78,581.34
YEAR 2	Government Complete Subscription & Maintenance	\$78,581.34
YEAR 3	Government Complete Subscription & Maintenance	\$78,581.34
YEAR 4 (optional)	Government Complete Subscription & Maintenance	\$78,581.34
YEAR 5 (optional)	Government Complete Subscription & Maintenance	\$78,581.34
TOTAL		392,906.70
~20% buffer to be used for optional enhancements (added to YEAR 1 Maximum compensation as detailed in Article 3)		\$78,582.30

## Exhibit C

### Self-Dealing Transaction Disclosure Form

In order to conduct business with the County of Fresno ("County"), members of a contractor's board of directors ("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 used 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.

The form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

## Exhibit C

<b>(1) Company Board Member Information:</b>			
<b>Name:</b>		<b>Date:</b>	
<b>Job Title:</b>			
<b>(2) Company/Agency Name and Address:</b>			
<b>(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to)</b>			
<b>(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code § 5233 (a)</b>			
<p>This section does not apply as no member of this organization has a material financial interest in this transaction.</p>			
<b>(5) Authorized Signature</b>			
<b>Signature:</b>		<b>Date:</b>	06/11/2025



# Exhibit D

## Insurance Requirements

### 1. Required Policies

Without limiting the County's right to obtain indemnification from the Contractor or any third parties, Contractor, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement.

- (A) **Commercial General Liability.** Commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis. Coverage must include products, completed operations, property damage, bodily injury, personal injury, and advertising injury.
- (B) **Automobile Liability.** Automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for property damages. Coverage must include any auto used in connection with this Agreement.
- (C) **Workers Compensation.** Workers compensation insurance as required by the laws of the State of California with statutory limits.
- (D) **Employer's Liability.** Employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for disease.
- (E) **Technology Professional Liability (Errors and Omissions).** Technology professional liability (errors and omissions) insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and in the aggregate. Coverage must encompass all of the Contractor's obligations under this Agreement, including but not limited to claims involving Cyber Risks.
- (F) **Cyber Liability.** Cyber liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence. Coverage must include claims involving Cyber Risks.

**Definition of Cyber Risks.** "Cyber Risks" include but are not limited to (i) Security Breach, which may include Disclosure of Personal Information to an Unauthorized Third Party; (ii) data breach; (iii) breach of any of the Contractor's obligations under Article 11 of this Agreement; (iv) system failure; (v) data recovery; (vi) failure to timely disclose data breach or Security Breach; (vii) failure to comply with privacy policy; (viii) payment card liabilities and costs; (ix) infringement of intellectual property, including but not limited to infringement of copyright, trademark, and trade dress; (x) invasion of privacy, including release of private information; (xi) information theft; (xii) damage to or destruction or alteration of electronic information; (xiii) cyber extortion; (xiv) extortion related to the Contractor's obligations under this Agreement regarding electronic information, including Personal Information; (xv) fraudulent instruction; (xvi) funds transfer fraud; (xvii) telephone fraud; (xviii) network security; (xix) data breach response costs, including Security Breach response costs; (xx) regulatory fines and penalties related to the Contractor's obligations under this Agreement regarding electronic information, including Personal Information; and (xxi) credit monitoring expenses.

## Exhibit D

### 2. Additional Requirements

- (A) **Verification of Coverage.** Within 30 days after the Contractor signs this Agreement, and at any time during the term of this Agreement as requested by the County's Risk Manager or the County Administrative Office, the Contractor shall deliver, or cause its broker or producer to deliver, to the County Risk Manager, at 2220 Tulare Street, 16th Floor, Fresno, California 93721, or [HRRiskManagement@fresnocountyca.gov](mailto:HRRiskManagement@fresnocountyca.gov), and by mail or email to the person identified to receive notices under this Agreement, certificates of insurance and endorsements for all of the coverages required under this Agreement.
- (i) Each insurance certificate must state that: (1) the insurance coverage has been obtained and is in full force;
- (B) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.
- (C) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Contractor shall provide to the County, or ensure that the policy requires the insurer to provide to the County, written notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 10 days in advance of cancellation. For cancellation of the policy for any other reason, and for any other change to the policy, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 30 days in advance of cancellation or change. The County in its sole discretion may determine that the failure of the Contractor or its insurer to timely provide a written notice required by this paragraph is a breach of this Agreement.
- (D) **County's Entitlement to Greater Coverage.** If the Contractor has or obtains insurance with broader coverage, higher limits, or both, than what is required under this Agreement, then the County requires and is entitled to the broader coverage, higher limits, or both. To that end, the Contractor shall deliver, or cause its broker or producer to deliver, to the County's Risk Manager certificates of insurance and endorsements for all of the coverages that have such broader coverage, higher limits, or both, as required under this Agreement.
- (E) **Waiver of Subrogation.** The Contractor waives any right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under any insurance policy required by this Agreement. The Contractor is solely responsible to obtain any policy endorsement that may be necessary to accomplish that waiver, but the Contractor's waiver of subrogation under this paragraph is effective whether or not the Contractor obtains such an endorsement.
- (F) **County's Remedy for Contractor's Failure to Maintain.** If the Contractor fails to keep in effect at all times any insurance coverage required under this Agreement, the County may, in addition to any other remedies it may have, suspend or terminate this

## Exhibit D

Agreement upon the occurrence of that failure, or purchase such insurance coverage, and charge the cost of that coverage to the Contractor. The County may offset such charges against any amounts owed by the County to the Contractor under this Agreement.

- (G) **Subcontractors.** The Contractor shall require and verify that all subcontractors used by the Contractor to provide services under this Agreement maintain insurance meeting all insurance requirements provided in this Agreement. This paragraph does not authorize the Contractor to provide services under this Agreement using subcontractors

# Exhibit E

## Data Security

### A. Definitions.

Capitalized terms used in this Exhibit E have the meanings set forth in this section A.

**“Authorized Employees”** means the Contractor’s employees who have access to Personal Information.

**“Authorized Persons”** means: (i) any and all Authorized Employees; and (ii) any and all of the Contractor’s subcontractors, representatives, agents, outsourcers, and consultants, and providers of professional services to the Contractor, who have access to Personal Information and are bound by law or in writing by confidentiality obligations sufficient to protect Personal Information in accordance with the terms of this Exhibit E.

**“Director”** means the County’s Director of Information Technology Services/Chief Information Officer or his or her designee.

**“Disclose”** or any derivative of that word means to disclose, release, transfer, disseminate, or otherwise provide access to or communicate all or any part of any Personal Information orally, in writing, or by electronic or any other means to any person.

**“Person”** means any natural person, corporation, partnership, limited liability company, firm, or association.

**“Personal Information”** means any and all information, including any data provided, or to which access is provided, to the Contractor by or upon the authorization of the County, including but not limited to vital records, that: (i) identifies, describes, or relates to, or is associated with, or is capable of being used to identify, describe, or relate to, or associate with, a person (including, without limitation, names, physical descriptions, signatures, addresses, telephone numbers, e-mail addresses, education, financial matters, employment history, and other unique identifiers, as well as statements made by or attributable to the person); (ii) is used or is capable of being used to authenticate a person (including, without limitation, employee identification numbers, government-issued identification numbers, passwords or personal identification numbers (PINs), financial account numbers, credit report information, answers to security questions, and other personal identifiers); or is personal information within the meaning of California Civil Code section 1798.3,

## Exhibit E

subdivision (a), or 1798.80, subdivision (e). Personal Information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

**“Privacy Practices Complaint”** means a complaint received by the County relating to the Contractor’s (or any Authorized Person’s) privacy practices, or alleging a Security Breach. Such complaint shall have sufficient detail to enable the Contractor to promptly investigate and take remedial action under this Exhibit E.

**“Security Safeguards”** means physical, technical, administrative or organizational security procedures and practices put in place by the Contractor (or any Authorized Persons) that relate to the protection of the security, confidentiality, value, or integrity of Personal Information. Security Safeguards shall satisfy the minimal requirements set forth in subsection C.(5) of this Exhibit E.

**“Security Breach”** means (i) any act or omission that compromises either the security, confidentiality, value, or integrity of any Personal Information or the Security Safeguards, or (ii) any unauthorized Use, Disclosure, or modification of, or any loss or destruction of, or any corruption of or damage to, any Personal Information.

**“Use”** or any derivative thereof means to receive, acquire, collect, apply, manipulate, employ, process, transmit, disseminate, access, store, disclose, or dispose of Personal Information.

### **B. Standard of Care.**

(1) The Contractor acknowledges that, in the course of its engagement by the County under this Agreement, the Contractor, or any Authorized Persons, may Use Personal Information only as permitted in this Agreement.

(2) The Contractor acknowledges that Personal Information is deemed to be confidential information of, or owned by, the County (or persons from whom the County receives or has received Personal Information) and is not confidential information of, or owned or by, the Contractor, or any Authorized Persons. The Contractor further acknowledges that all right, title, and interest in or to the Personal Information remains in the County (or persons from whom the County receives or has received Personal Information) regardless of the Contractor’s, or any Authorized

## **Exhibit E**

Person's, Use of that Personal Information.

(3) The Contractor agrees and covenants in favor of the County that the Contractor shall: (i) keep and maintain all Personal Information in strict confidence, using such degree of care under this Subsection B as is reasonable and appropriate to avoid a Security Breach; (ii) Use Personal Information exclusively for the purposes for which the Personal Information is made accessible to the Contractor pursuant to the terms of this Exhibit E; (iii) not Use, Disclose, sell, rent, license, or otherwise make available Personal Information for the Contractor's own purposes or for the benefit of anyone other than the County, without the County's express prior written consent, which the County may give or withhold in its sole and absolute discretion; and (iv) not, directly or indirectly, Disclose Personal Information to any person (an "Unauthorized Third Party") other than Authorized Persons pursuant to this Agreement, without the Director's express prior written consent.

Notwithstanding the foregoing paragraph, in any case in which the Contractor believes it, or any Authorized Person, is required to disclose Personal Information to government regulatory authorities, or pursuant to a legal proceeding, or otherwise as may be required by applicable law, the Contractor shall (a) immediately notify the County of the specific demand for, and legal authority for the disclosure, including providing the County with a copy of any notice, discovery demand, subpoena, or order, as applicable, received by the Contractor, or any Authorized Person, from any government regulatory authorities, or in relation to any legal proceeding, and (b) promptly notify the County before such Personal Information is offered by the Contractor for such disclosure so that the County may have sufficient time to obtain a court order or take any other action the County may deem necessary to protect the Personal Information from such disclosure, and the Contractor shall cooperate with the County to minimize the scope of such disclosure of such Personal Information.

The Contractor shall remain liable to the County for the actions and omissions of any Unauthorized Third Party concerning its Use of such Personal Information as if they were the Contractor's own actions and omissions.

### **C. Information Security.**

(1) The Contractor covenants, represents and warrants to the County that the Contractor's

## Exhibit E

Use of Personal Information under this Agreement does and shall at all times comply with all federal, state, and local, privacy and data protection laws, as well as all other applicable regulations and directives, including but not limited to California Civil Code, Division 3, Part 4, Title 1.81 (beginning with section 1798.80), and the Song-Beverly Credit Card Act of 1971 (California Civil Code, Division 3, Part 4, Title 1.3, beginning with section 1747). If the Contractor Uses credit, debit, or other payment cardholder information, the Contractor shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing and maintaining all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at the Contractor's sole cost and expense.

(2) The Contractor covenants, represents and warrants to the County that, as of the Effective Date, the Contractor has not received notice of any violation of any privacy or data protection laws, as well as any other applicable regulations or directives, and is not the subject of any pending legal action or investigation by, any government regulatory authority regarding same.

(3) Without limiting the Contractor's obligations under subsection C.(1) of this Exhibit E, the Contractor's (or Authorized Person's) Security Safeguards shall be no less rigorous than accepted industry practices and, at a minimum, include the following: (i) limiting Use of Personal Information strictly to the Contractor's and Authorized Persons' technical and administrative personnel who are necessary for the Contractor's, or Authorized Persons', Use of the Personal Information pursuant to this Agreement; (ii) ensuring that all of the Contractor's connectivity to the County computing systems will only be through the County's security gateways and firewalls, and only through security procedures approved upon the express prior written consent of the Director; (iii) to the extent that they contain or provide access to Personal Information, (a) securing the Contractor's business facilities, data centers, paper files, servers, back-up systems and computing equipment, operating systems, and software applications, including, but not limited to, all mobile devices and other equipment, operating systems, and software applications with information storage capability; (b) employing adequate controls and data security measures with respect to the Contractor Facilities and Equipment), both internally and externally, to protect (1) the Personal Information

## Exhibit E

from potential loss or misappropriation, or unauthorized Use, and (2) the County's operations from disruption and abuse; (c) having and maintaining network, device application, database and platform security; (d) maintaining authentication and access controls within media, computing equipment, operating systems, and software applications; and (e) installing and maintaining in all mobile, wireless, or handheld devices a secure internet connection, having continuously updated anti-virus software protection and a remote wipe feature always enabled, all of which is subject to express prior written consent of the Director; (iv) encrypting all Personal Information at advance encryption standards of Advanced Encryption Standards (AES) of 128 bit or higher (a) stored on any mobile devices, including but not limited to hard disks, portable storage devices, or remote installation, or (b) transmitted over public or wireless networks (the encrypted Personal Information must be subject to password or pass phrase, and be stored on a secure server and transferred by means of a Virtual Private Network (VPN) connection, or another type of secure connection, all of which is subject to express prior written consent of the Director); (v) strictly segregating Personal Information from all other information of the Contractor, including any Authorized Person, or anyone with whom the Contractor or any Authorized Person deals so that Personal Information is not commingled with any other types of information; (vi) having a patch management process including installation of all operating system/software vendor security patches; (vii) maintaining appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks of Authorized Employees consistent with applicable law; and (viii) providing appropriate privacy and information security training to Authorized Employees.

(4) During the term of each Authorized Employee's employment by the Contractor, the Contractor shall cause such Authorized Employees to abide strictly by the Contractor's obligations under this Exhibit E. The Contractor further agrees that it shall maintain a disciplinary process to address any unauthorized Use of Personal Information by any Authorized Employees.

(5) The Contractor shall, in a secure manner, backup daily, or more frequently if it is the Contractor's practice to do so more frequently, Personal Information received from the County.

### **D. Security Breach Procedures.**

(1) Promptly, and without undue delay, upon the Contractor's confirmation of a Security



## Exhibit E

Breach, the Contractor shall (a) notify the Director of the Security Breach, such notice to be given first by telephone at the following telephone number, followed promptly by email at the following email address: (559) 600-5900 / [incidents@fresnocountyca.gov](mailto:incidents@fresnocountyca.gov) (which telephone number and email address the County may update by providing notice to the Contractor), and (b) preserve all relevant evidence (and cause any affected Authorized Person to preserve all relevant evidence) relating to the Security Breach. The notification shall include, to the extent reasonably possible, the identification of each type and the extent of Personal Information that has been, or is reasonably believed to have been, breached, including but not limited to, compromised, or subjected to unauthorized Use, Disclosure, or modification, or any loss or destruction, corruption, or damage.

(2) Immediately following the Contractor's notification to the County of a Security Breach, as provided pursuant to subsection D.(1) of this Exhibit E, the Parties shall coordinate with each other to investigate the Security Breach. The Contractor agrees to fully cooperate with the County, including, without limitation: (i) assisting the County in conducting any investigation; (ii) providing the County with physical access to the facilities and operations affected; (iii) facilitating interviews with Authorized Persons and any of the Contractor's other employees knowledgeable of the matter; and (iv) making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law, regulation, industry standards, or as otherwise reasonably required by the County. To that end, the Contractor shall, with respect to a Security Breach, be solely responsible, at its cost, for all notifications required by law and regulation, and the Contractor shall provide a written report of the investigation and reporting required to the Director within thirty (30) days after the Contractor's discovery of the Security Breach.

(3) The County shall promptly notify the Contractor of the Director's knowledge, or reasonable belief, of any Privacy Practices Complaint, and upon the Contractor's receipt of notification thereof, the Contractor shall promptly address such Privacy Practices Complaint, including taking any corrective action under this Exhibit E, all at the Contractor's sole expense, in accordance with applicable privacy rights, laws, regulations and standards. In the event the Contractor discovers a Security Breach, the Contractor shall treat the Privacy Practices Complaint as a Security Breach. Within 24 hours of the Contractor's receipt of notification of such Privacy

## **Exhibit E**

Practices Complaint, the Contractor shall notify the County whether the matter is a Security Breach, or otherwise has been corrected and the manner of correction, or determined not to require corrective action and the reason therefor.

(4) The Contractor shall take prompt corrective action to respond to and remedy any Security Breach and take reasonable mitigating actions, including but not limiting to, preventing any reoccurrence of the Security Breach and correcting any deficiency in Security Safeguards as a result of such incident, all at the Contractor's sole expense, in accordance with applicable privacy rights, laws, regulations and standards. The Contractor shall reimburse the County for all reasonable costs incurred by the County in responding to, and mitigating damages caused by, any Security Breach, including all costs of the County incurred in relation to any litigation or other action described in subsection D. (5) of this Exhibit E to the extent applicable: (1) the cost of providing affected individuals with credit monitoring services for a specific period not to exceed 12 months, to the extent the incident could lead to a compromise of the data subject's credit or credit standing; (2) call center support for such affected individuals for a specific period not to exceed thirty (30) days; and (3) the cost of any measures required under applicable laws.

### **E. Oversight of Security Compliance.**

(1) The Contractor shall have and maintain a written information security policy that specifies Security Safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities.

(2) Upon the County's written request, to confirm the Contractor's compliance with this Exhibit E, as well as any applicable laws, regulations and industry standards, the Contractor shall provide the County with the results of any audit by or on behalf of the Contractor that assesses the effectiveness of the Contractor's information security program as relevant to the security and confidentiality of Personal Information Used by the Contractor or Authorized Persons during the course of this Agreement under this Exhibit E.

(3) The Contractor shall ensure that all Authorized Persons who Use Personal Information agree to the same restrictions and conditions in this Exhibit E. that apply to the Contractor with respect to such Personal Information by incorporating the relevant provisions of these provisions

## **Exhibit E**

into a valid and binding written agreement between the Contractor and such Authorized Persons, or amending any written agreements to provide same.

### **F. Return or Destruction of Personal Information.**

Upon the termination of this Agreement, the Contractor shall, and shall instruct all Authorized Persons to, promptly return to the County all Personal Information, whether in written, electronic or other form or media, in its possession or the possession of such Authorized Persons, in a machine readable form used by the County at the time of such return, or upon the express prior written consent of the Director, securely destroy all such Personal Information, and certify in writing to the County that such Personal Information have been returned to the County or disposed of securely, as applicable. If the Contractor is authorized to dispose of any such Personal Information, as provided in this Exhibit E, such certification shall state the date, time, and manner (including standard) of disposal and by whom, specifying the title of the individual. The Contractor shall comply with all reasonable directions provided by the Director with respect to the return or disposal of Personal Information and copies thereof. If return or disposal of such Personal Information or copies of Personal Information is not feasible, the Contractor shall notify the County accordingly, specifying the reason, and continue to extend the protections of this Exhibit E to all such Personal Information and copies of Personal Information. The Contractor shall not retain any copy of any Personal Information after returning or disposing of Personal Information as required by this section F. The Contractor's obligations under this section F survive the termination of this Agreement and apply to all Personal Information that the Contractor retains if return or disposal is not feasible and to all Personal Information that the Contractor may later discover.

### **G. Equitable Relief.**

The Contractor acknowledges that any breach of its covenants or obligations set forth in this Exhibit E may cause the County irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the County is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the County may be entitled at law or in equity. Such remedies shall not be

## **Exhibit E**

deemed to be exclusive but shall be in addition to all other remedies available to the County at law or in equity or under this Agreement.

### **H. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the County, its officers, employees, and agents, (each, a “**County Indemnitee**”) from and against any and all infringement of intellectual property including, but not limited to infringement of copyright, trademark, and trade dress, invasion of privacy, information theft, and extortion, unauthorized Use, Disclosure, or modification of, or any loss or destruction of, or any corruption of or damage to, Personal Information, Security Breach response and remedy costs, credit monitoring expenses, forfeitures, losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, fines, and penalties (including regulatory fines and penalties), costs or expenses of whatever kind, including attorney’s fees and costs, the cost of enforcing any right to indemnification or defense under this Attachment “A” and the cost of pursuing any insurance providers, arising out of or resulting from any third party claim or action against any County Indemnitee in relation to the Contractor’s, its officers, employees, or agents, or any Authorized Employee’s or Authorized Person’s, performance or failure to perform under this Exhibit “E” or arising out of or resulting from the Contractor’s failure to comply with any of its obligations under this section H. The provisions of this section H do not apply to the acts or omissions of the County. The provisions of this section H are cumulative to any other obligation of the Contractor to defend, indemnify, or hold harmless any County Indemnity under this Agreement. The provisions of this section H shall survive the termination of this Agreement.

### **I. Survival.**

The respective rights and obligations of the Contractor and the County as stated in this Exhibit E shall survive the termination of this Agreement.

### **J. No Third Party Beneficiary.**

Nothing express or implied in the provisions of in this Exhibit E is intended to confer, nor shall anything herein confer, upon any person other than the County or the Contractor and their respective successors or assignees, any rights, remedies, obligations or liabilities whatsoever.

### **L. No County Warranty.**

## **Exhibit E**

The County does not make any warranty or representation whether any Personal Information in the Contractor's (or any Authorized Person's) possession or control or Use by the Contractor (or any Authorized Person), pursuant to the terms of this Agreement is or will be secure from unauthorized Use, or a Security Breach or Privacy Practices Complaint.

## Exhibit F

### Additional BlueDAG Software As A Services (SaaS) Terms

1. **Authority and Use:** The County represents and warrants that (i) they have full power and authority to enter into this Agreement, and to agree to all the terms and conditions contained herein; (ii) only the County and the assigned Users shall be permitted access to the SaaS Services and any related tools, applications, information, and materials provided in connection with the SaaS Services; (iii) the County shall obtain and maintain in effect all permits, licenses, and authorizations necessary for the purchase and intended use of the Products and the SaaS, and (iv) with respect to the information and material you load into the SaaS Services to provide to the Contractor, you possess sufficient intellectual property and proprietary rights to load and use such information and material in the SaaS Services without violation of the rights of any third party.

2. **Viruses and Malicious Code:** The County will neither insert nor permit the insertion or introduction of any Malicious Code into the SaaS Services or systems and software (collectively "System") used to deliver the SaaS Services. In addition, the County will take all commercially reasonable actions and precautions to prevent the introduction and proliferation of Malicious Code into the System. The Contractor may immediately suspend your access to the System and SaaS Services if the Contractor detects Malicious Code or reasonably suspects that Malicious Code was introduced or permitted to be introduced by or through you or your account.

3. **Cooperation:** The County will reasonably cooperate with any Contractor investigation of SaaS Service outages, security problems, and any suspected breach of the Agreement.

4. **Consents:** The County represents and warrants that they have sufficient right to transmit, store, copy, and use all data, including personal information if applicable, provided by the County ("County Materials") and used by the County with the SaaS Services. The County, and not the Contractor, are responsible for all of County Materials and the County hereby grants the Contractor authorization to view, store, copy, and delete any information sent to, from, or stored on the SaaS Services or a BlueDAG as part of BlueDAG's provision of the SaaS Services.

## Exhibit F

5. **Minimum Standards:** The County will provide and maintain all hardware, software and network connectivity ("Environment") needed to access the Internet and the SaaS Services that meets the minimum standards established by the Contractor as they may be revised by the Contractor from time to time and communicated to the County and/or provided on the Contractor website at [www.BlueDAG.com](http://www.BlueDAG.com).

6. **Upgrades; Modification of SaaS Terms:** The Contractor shall have sole discretion as to whether to make updates, improvements, modifications or enhancements or add new features to the SAAS Services, and reserves the right to do so at any time, provided that the County will be provided at least ten (10) days' advance notice for changes that materially and adversely affect any use by the County of the SAAS Services. Any such updates, improvements, modifications, enhancements, or new features are subject to this Agreement. All rights not expressly granted to the County and the County's Users pursuant to this Agreement are reserved to the Contractor.

7. **Limited Use, Unique Users:** The County and County Users may access and use the SaaS Services solely to support and operate The Contractor's platform as described in Exhibit F, Section 1. The Contractor reserves the right, in its sole discretion, to limit the County and/or County Users' use of the SaaS Services in the event that the Contractor determines that the County's and/or County Users' use thereof to be inconsistent with such purposes, and/or otherwise inconsistent with the Agreement. Only the identified User may use the log-in credentials (name, password, etc.) assigned to them. Each impermissible use of the SaaS Services by any person that is not the User to whom such login credentials are assigned will result in payment for a User license for such person for the term of this Agreement to be immediately due and payable respect to prior payment periods and due as regularly scheduled for other Users for current and future payment periods. Any User added pursuant to this Section 7 may not be removed and shall increase the minimum number of Users required pursuant to this Agreement.

8. **Prohibited Uses:** All uses of the SaaS Service not expressly permitted hereunder are prohibited. Without limiting the generality of the foregoing, the County agrees, that all County

## Exhibit F

Users, as a condition of use of the SaaS Services, not to use the SaaS Services for any purpose or in any manner that is unlawful or prohibited by the Agreement or that the Contractor informs you could damage, disable, overburden, or impair any Contractor or County server, or the network(s) connected to any Contractor or County server, or interfere with any other party's use and enjoyment of any of the SaaS Services. The County and County Users may not attempt to gain unauthorized access to any part of the SaaS Services, other accounts, computer systems or networks connected to any Contractor or County server or to any part of the SaaS Services, through hacking, password mining or any other means. The County and County Users may not obtain or attempt to obtain any materials or information through any means not intentionally made available through the SaaS Services. You and your Users may not (i) copy, reproduce, alter, modify, transmit, perform, create derivative works of, publish, sub-license, distribute, or circulate the SaaS Services, or any associated applications, tools or data thereof; (ii) disassemble, decompile, or reverse engineer the software used to provide the SaaS Services, or use a robot, spider, or any similar device to copy or catalog any materials or information made available through the SaaS Services; or (iii) take any actions, whether intentional or unintentional, that may circumvent, disable, damage or impair the SaaS Services' control or security systems, or allow or assist a third party to do so.

9. **Suspension of Service:** The Contractor may at any time suspend (or require that the County suspend) the access of County Users to the SaaS Services in the event of violation of this Agreement. Grounds for suspension are not limited but may include, for example, legal or regulatory reasons, investigation of suspicious activities, or action by authorities, or if the Contractor or the County have reason to suspect any such County User is engaged in activities that may violate the Agreement, applicable laws, or County policies, or are otherwise deemed harmful to the Contractor, the County, the Contractor's and/or The County's respective network or facilities, or other SaaS Service users. The Contractor shall not be liable to any User for suspension of the SaaS Service, regardless of the grounds.

10. **County Work Product:** All materials including background and training materials, data, processes, tools, methodologies, results, reports, presentations or any other



## Exhibit F

information or material generated or developed by the Contractor specifically and uniquely for the County pursuant to the Agreement that is based on any Confidential Information of the County (“Work Product”) shall be and remain the property of the Contractor, and the County may only use such Work Product pursuant to a valid SaaS Subscription Agreement. Work Product does not include any work product that is independently (without regard to any Confidential Information of the Contractor) developed by the County or the County’s Confidential Information. Compliance reports or other County specific information generated by the SaaS Services shall remain the property of the County.

11. **Links to/from Third Party Sites:** The SAAS Service may provide links (or allow the County or County Users to provide links) that allow the County or County Users to leave the Contractor’s site and/or access third party websites or access the Contractor’s site or services through third party websites. The linked sites are not under the control of the Contractor, and the Contractor is not responsible for the contents of any linked site or any link contained in a linked site, or any changes or updates to such sites or the performance or security of such other sites. The Contractor is not responsible for any content of or transmission to or from any linked site. The Contractor provides these links only as a convenience or feature of the SaaS Services, and the inclusion of any link does not imply endorsement by the Contractor of the site. Users access any such third-party websites or access the SaaS Service through any third party websites at their sole risk and discretion.

12. **Security; Passwords; Internet:** The County is responsible for administering usernames and passwords for all Users (the “Log-In Information”) and administering any User access granted to the SaaS Service through a User’s account at a third-party site, such as but not limited to Facebook or LinkedIn or similar integration with a third-party website or product (“Single Source Log-In”). Each User must have a valid username and password for the purpose of accessing the SaaS Services. The County and County Users must keep all Log-In Information and Single- Source Log-In information strictly confidential. Log-In Information and Single Source Log-In may be used only by the assigned User and may not be shared or transferred to another person without our prior consent. The County is responsible for the use

## Exhibit F

of the SaaS Services by any County employees or any person who gains access to your data or the SaaS Services, even if such use was not authorized by the County or results from the County's failure to use reasonable security precautions or the breach of such precautions.

- The County may not resell, license or otherwise provide access by any means to any part of the SaaS Services other than to Users for whom a subscription is paid. The County and County Users are responsible for maintaining the confidentiality of that User's username and password. The County and County Users are responsible for any and all activities that occur under all County Users' accounts. The County agrees to notify the Contractor immediately of any unauthorized use of County Users' accounts or any other breach of security. The County will not be liable for any loss that the County or a User may incur as a result of someone else using the County Users' passwords or accounts, either with or without the applicable Users' knowledge. The Contractor is not responsible to the County for unauthorized access to County data or the unauthorized use of the SaaS Services, unless such unauthorized use or access results from failure by the Contractor to meet its security obligations as provided herein.
- The Contractor does not guarantee the security of any information transmitted to or from the County or any User over the Internet, including through the use of e-mail. Access to the Internet, if employed, is the County and each County User's sole responsibility and the responsibility of Internet provider(s) the County selects. The Contractor does not accept any responsibility for failure of service due to Internet facilities, including related telecommunications facilities or equipment that are not under the Contractor's direct control.

13. **Communications from BlueDAG:** The Contractor may periodically contact the County or County Users for customer service purposes. By accessing the SaaS Services, the County, and each County User consent to receive such communications. The County agrees that the Contractor may reference its business relationship with the County in its marketing or sales materials.

## Exhibit F

14.       **Limited Warranty:** The Contractor warrants that it will provide the SaaS Services in conformity with the specifications for such SaaS Services as provided to the County (as they may be updated from time to time by the Contractor) by the Contractor, and warrants that the SaaS Services will reasonably perform as intended and in conformity with the Agreement. Except for the limited warranty expressly provided in the previous sentence, THE SAAS SERVICES AND ANY TOOLS, APPLICATIONS, INFORMATION OR MATERIALS PROVIDED TO THE COUNTY IN CONNECTION WITH THE SAAS SERVICES ARE PROVIDED "AS IS," AND ALL WARRANTIES OF ANY KIND, PAST OR PRESENT, WHETHER STATUTORY, COMMON-LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, RESULTS OR OUTPUT, SECURITY AND, EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 17, HEREIN, NONINFRINGEMENT, ARE EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW.