

AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into this 7th day of January, 2020, by and between the COUNTY OF FRESNO, a political subdivision of the State of California, ("COUNTY"), and VertiQ Software LLC, a California limited liability company, whose address is 18625 Sutter Blvd, Ste 500, Morgan Hill CA 95037-2864 ("CONTRACTOR" or "CONTRACTOR").

RECITALS

WHEREAS, COUNTY previously purchased from CONTRACTOR a CME Case Management System for Coroners and Medical Examiners ("CME"), which supports reporting procedures and statistical requirements for Coroners and Medical Examiners, from CONTRACTOR; and

WHEREAS, CONTRACTOR desires to continue to provide maintenance and support for CME; and

WHEREAS, COUNTY and CONTRACTOR desire to execute this Agreement for continued maintenance and support of CME, currently used by the Fresno County Sheriff's Office – Coroner ("Sheriff's Office").

NOW, THEREFORE, the parties agree as follows:

WITNESSETH

I. DEFINITIONS:

Acceptance Criteria:

The performance and operating specifications which the System must meet at a minimum, as set out or referred to in this Agreement.

Acceptance Test:

The process of testing a specific function or functions to determine if the operation or operations are as stated in this Agreement.

1 Documentation or any of the foregoing. The parties acknowledge and agree that,
2 as between CONTRACTOR and COUNTY, full ownership of all rights in and to
3 all COUNTY data, whether in magnetic or paper form, including without limitation
4 printed output from the System, are the exclusive property of COUNTY.

5 This Agreement does not provide COUNTY with title or ownership of the
6 Program, but only a right of limited use.

7 4. LIMITATION OF WARRANTY

8 LIMITATION OF WARRANTY. EXCEPT AS EXPRESSLY SET FORTH
9 IN THIS PARAGRAPH, CONTRACTOR SHALL HAVE NO LIABILITY FOR THE
10 PROGRAM OR ANY SERVICES PROVIDED, INCLUDING ANY LIABILITY FOR
11 NEGLIGENCE; CONTRACTOR MAKES AND COUNTY RECEIVES NO
12 WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR IN ANY OTHER
13 PROVISION OF THIS AGREEMENT OR ANY OTHER COMMUNICATION; AND
14 CONTRACTOR SPECIFICALLY DISCLAIMS ANY WARRANTY OF
15 MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

16 5. LIMITATION OF WARRANTY & EXCLUSION OF CONSEQUENTIAL
17 DAMAGES

18 The cumulative liability of CONTRACTOR to COUNTY for all claims
19 relating to the Program, and any services rendered under this Agreement, in
20 contract, tort, or otherwise, shall not exceed the total amount of all Maintenance
21 or Usage Fees paid to CONTRACTOR for the Program or services within the
22 prior year. This limitation shall not apply to the indemnification in Section XI.,
23 herein. In no event shall either party be liable to the other for any consequential,
24 indirect, special, or incidental damages, even if such party has been advised of
25 the possibility of such potential loss or damage. The foregoing limitation of
26 liability and exclusion of certain damages shall apply regardless of the success or
27 effectiveness of other remedies.

1 System Software or its related systems or networks; (ix) reverse-engineer or
2 access the System Software in order to (a) build a competitive product or service,
3 (b) build a product using similar ideas, features, functions or graphics of the
4 System Software, or (c) copy any ideas, features, functions or graphics of the
5 System Software. Any of the actions listed above, occurring on a permanent or
6 temporary basis, or any attempt to do so, will constitute a breach of this
7 Agreement.

8 COUNTY may not install the Program anywhere but the approved
9 COUNTY site without CONTRACTOR's prior written consent (which will not be
10 unreasonably withheld), provided that COUNTY transfers the Program to an
11 approved, temporary location in the event of an interruption of computer
12 operations. If COUNTY uses, copies, or modifies the Licensed Program or
13 transfers possession of any copy, adaptation, transcription, or merged portion of
14 the Licensed Program to any other party in any way not expressly authorized by
15 CONTRACTOR, the COUNTY License is automatically terminated. COUNTY
16 acknowledges that, in the event of any breach, CONTRACTOR will not have an
17 adequate remedy in money or damages. CONTRACTOR shall therefore be
18 entitled to obtain an injunction against such breach from any court of competent
19 jurisdiction immediately upon request. CONTRACTOR's right to obtain injunctive
20 relief shall not limit its right to seek further remedies.

21 No right or license is granted under this Agreement for the use or other
22 utilization of the licensed programs, directly or indirectly, for the benefit of any
23 other person or entity, except as provided in this Agreement.

24 8. POSSESSION AND USE OF SOURCE CODE

25 Source code and other material that results from custom programming by
26 CONTRACTOR released to COUNTY under this License shall be deemed
27 CONTRACTOR software, subject to all of the terms and conditions of the

1 software License set forth in this Agreement. The scope of COUNTY's permitted
2 use of the custom source code under this License shall be limited to
3 maintenance and support of the System Software. For purposes of this Section,
4 the term "maintenance and support" means correction of System Software errors,
5 and preparation of System Software modifications and enhancements. If
6 COUNTY creates computer code in the process of enhancing the System
7 Software, that specific new code shall be owned by COUNTY, and may be used
8 by COUNTY's employees, officers, or agents for COUNTY's own internal
9 business operations. However, if COUNTY's enhancement results in the creation
10 of a derivative work from the System Software, the copyright to such derivative
11 work shall be owned by CONTRACTOR, and COUNTY's rights to use such
12 derivative work shall be limited to those granted with respect to the System
13 Software in this Agreement.

14 9. INTELLECTUAL PROPERTY, TRADEMARK, AND COPYRIGHT

15 CONTRACTOR retains ownership of the System Software, any portions
16 or copies thereof, and all rights therein. CONTRACTOR reserves all rights not
17 expressly granted to COUNTY. This License does not grant COUNTY any rights
18 in connection with any trademarks or service marks of CONTRACTOR, its
19 suppliers, or licensors. CONTRACTOR, its suppliers, or licensors own all right,
20 title, interest, and copyrights in and to the System Software and the
21 accompanying System Software Documentation, and any copies of the System
22 Software. All title and intellectual property rights in, and to the content which may
23 be accessed through use of the System Software are the property of the
24 respective content owner and may be protected by applicable copyright or other
25 intellectual property laws and treaties. This License grants COUNTY no rights to
26 use such content.

1 B. SERVICES TO BE PROVIDED BY CONTRACTOR TO COUNTY

2 1. SYSTEM INSTALLATION

3 CONTRACTOR shall supply and install CME in accordance with this
4 Agreement. Such software installation shall include hardware/network review and
5 recommendations, consultation, software installation and remote technical
6 support.

7 2. TRAINING

8 CONTRACTOR will conduct “train-the-trainer” training of COUNTY staff
9 via WebEx, and at a time approved in writing by COUNTY.

10 3. DOCUMENTATION

11 CONTRACTOR shall provide to COUNTY CME System Documentation,
12 which shall consist of electronic media files. The electronic media files must be
13 printable using PC software normally available at COUNTY. CONTRACTOR
14 shall provide new System Documentation corresponding to all new Software
15 Upgrades. COUNTY may print additional copies of all documentation. COUNTY
16 shall only use System Documentation for the purposes identified within this
17 Agreement.

18 C. SYSTEM MAINTENANCE AND SUPPORT BY CONTRACTOR

19 System maintenance and support includes System Updates as they are
20 released by CONTRACTOR. COUNTY will identify the first day of production use
21 and communicate that to CONTRACTOR. CONTRACTOR will support day-to-
22 day operation of the System, including the following services:

1 1. SUPPORT HOURS/SCOPE

2 Provide unlimited technical assistance through toll-free telephone
3 Hot-Line Support at (800) 222-7947, or electronic mail at
4 vqtechsupport@vertiq.com, Monday through Friday from 8:00 a.m. to 5 p.m.
5 Pacific Standard Time, excluding CONTRACTOR and COUNTY holidays, to
6 report problems or request user assistance in use or restoration of the Program
7 to normal operating condition.

8 The object of this support will be to answer specific questions related to
9 the System Software and the application thereof. Support provided under this
10 Agreement does not include training of new personnel (after initial staff is
11 trained), operation of hardware, or solving other hardware/software problems
12 unrelated to the System Software.

13 2. REMOTE ACCESS

14 CONTRACTOR offers Remote Access. In order to use Remote Access,
15 COUNTY must have the communications software set forth in Sections XIII and
16 XIV. Remote Access includes: (1) diagnostic or corrective actions necessary to
17 restore proper Program operation; (2) diagnostic analysis to assist in determining
18 the cause of the reported problem; (3) correction of data file problems; and (4)
19 downloading Error Corrections or Enhancements.

20 3. SUPPORT RESPONSE

21 During the term of this Agreement, CONTRACTOR will (a) correct any
22 error or malfunctions in the System as supplied by CONTRACTOR that prevent
23 the System from operating in conformance with the specifications set forth in this
24 Agreement, or (b) provide a commercially reasonable alternative that will conform
25 to the specifications set forth in this Agreement.

26 If analysis by CONTRACTOR indicates a reported problem is caused by
27 a reproducible error or malfunction in the then-current release of the System

1 Software, as supplied and maintained by CONTRACTOR, which significantly
2 impacts effective use of the System by COUNTY, CONTRACTOR will provide
3 continuous effort to correct the error or to resolve the problem by providing a
4 circumvention.

5 In such cases, CONTRACTOR will provide COUNTY with corrective
6 information, such as corrective documentation and/or program code.
7 CONTRACTOR will endeavor to respond to COUNTY's service request no later
8 than four (4) business hours from the time a CONTRACTOR receives COUNTY's
9 call. In the event that a person with the necessary expertise is not available when
10 the call is received, CONTRACTOR will respond to the service request no later
11 than within one (1) business day.

12 4. ERROR REPORTS

13 Error Reports to CONTRACTOR are not counted towards COUNTY
14 annual support hours. COUNTY agrees, if requested by CONTRACTOR, to
15 submit an Error Report which identifies the problem and describes the steps
16 needed to reproduce the Error ("Error Report"), in addition to a listing of output
17 and any other data that CONTRACTOR may require in order to reproduce any
18 Error, and the operating conditions under which the Error occurred or was
19 discovered.

20 5. MATTERS NOT COVERED BY SUPPORT

21 The following matters are not covered as part of the COUNTY Annual
22 Maintenance Fee Support, and if COUNTY requests any of the following
23 services, CONTRACTOR will charge at the prevailing per diem rate:

- 24 a) Any problem resulting from the misuse, improper use, alteration, or
25 damage of the Program;
- 26 b) Any problem caused by COUNTY modifications to any version of
27 the Program;

- 1 c) Any problem resulting from computer software other than the
2 Program;
- 3 d) Any problem relating to COUNTY computer hardware or
4 peripherals, which includes printers. Adding, modifying and deleting
5 printers to COUNTY network is expressly not covered.
- 6 e) Any problems relating to older unsupported versions.
- 7 f) Any support resulting from a system crash. This includes rebuilding
8 from a backup. Restoring after a system failure or reloading
9 software as a result of not having a reliable backup.
- 10 g) Reloading software other than CME as a result of a system upgrade.
11 Assistance with reloading CME after a system upgrade is available
12 if scheduled in advance. This support is limited to two hours, and
13 CONTRACTOR reserves the right invoice COUNTY for further
14 assistance in excess of two hours.
- 15 h) Assistance with backups of the data or the operating system.
- 16 i) Administration and any support/training of the operating system.
- 17 j) Initial or reinstallation of the operating system.
- 18 k) CME Support, as a result of users not reconciling their bank
19 account(s) in a timely manner.
- 20 l) CME support, as a result of users not running Database Backup
21 and Recovery and resolving balancing issues in a timely manner.
22 CONTRACTOR reserves the right to charge additional service fees if
23 COUNTY seeks assistance for matters that do not directly relate to
24 the operation of the Program. CONTRACTOR does not hold itself out
25 as a professional expert or adviser regarding COUNTY's computer
26 hardware, Third Party Software, computer peripherals or information
27 needs. In particular, CONTRACTOR does not support COUNTY's

1 printers. CONTRACTOR is not responsible for obsolescence of the
2 Program that may result from changes in COUNTY's requirements.

3 6. REMOTE ACCESS ABILITY DIAGNOSTICS

4 Remote Access Ability Support includes:

- 5 a) Diagnostic or corrective actions necessary to restore proper
- 6 Product operation;
- 7 b) Diagnostic actions which attempt to identify the cause of system
- 8 problem;
- 9 c) Correction of data file problem; and
- 10 d) Product modifications

11 CONTRACTOR product specialists will provide diagnostics via an
12 approved COUNTY method. COUNTY will provide any required hardware and
13 equipment necessary at COUNTY for CONTRACTOR support.

14 7. ERROR CORRECTION PROCESS

15 If, during the term of this Agreement, COUNTY determines that software
16 error(s) exist, COUNTY will first follow the error procedures specified in the
17 System Documentation. If following the error procedures does not correct the
18 software error, COUNTY shall immediately notify CONTRACTOR, setting forth
19 the defects noted with specificity. Upon notification of a reported software error,
20 CONTRACTOR shall have five (5) days to determine if any actual software error
21 exists, and if so, endeavor to correct such software errors. At CONTRACTOR's
22 request, additional time to solve difficult problems will not be unreasonably
23 withheld. Within fifteen (15) days of correction, COUNTY shall retest the System
24 Software, and report any other software errors.

25 8. TECHNICAL INFORMATION

26 CONTRACTOR will provide technical information to COUNTY from time
27 to time. Such information may cover areas such as Product usage, third party

1 software, and other matters considered relevant to COUNTY by CONTRACTOR.
2 CONTRACTOR will provide technical information at the discretion of
3 CONTRACTOR, which will not be unreasonably withheld.

4 D. ADDITIONAL SYSTEM MAINTENANCE SERVICE REQUIREMENTS

5 CONTRACTOR may provide additional maintenance services (“Additional
6 Maintenance and Support Services” or “Additional Maintenance Services”) at an
7 additional charge. Charges will be as identified in Section VI of this Agreement;
8 or, if not included in this Agreement, charges will be at current prices in effect at
9 the time goods or services are provided. Any Additional Maintenance and
10 Support Services requested by COUNTY and determined by CONTRACTOR to
11 be billable by CONTRACTOR must be identified as a chargeable service prior to
12 the service being performed, and must be approved in writing in advance by
13 COUNTY’s Contract Administrator. Additional Maintenance Services include, but
14 are not limited to, the following:

15 1. ADDITIONAL TRAINING

16 CONTRACTOR shall provide a specific amount of training pursuant to
17 this Agreement. Additional training at a COUNTY facility is available upon
18 COUNTY’S request, at an additional charge, under the terms of this Agreement.
19 CONTRACTOR will review requests for additional training, which must be
20 requested in writing in advance by COUNTY’s Contract Administrator. Charges
21 will be at rates identified in this Agreement.

22 2. DATA AND SYSTEM CORRECTIONS

23 Data and System Corrections include any corrective actions
24 accomplished by CONTRACTOR via VPN, which are necessary due to COUNTY
25 errors or unauthorized source code or data access by COUNTY. Unauthorized
26 access to the data is defined as any COUNTY editing of data through other than
27 normal system usage as defined in System Documentation. Unauthorized access

1 to source code is defined as any COUNTY access whatsoever to system source
2 code. Services provided by CONTRACTOR are not billable when they result from
3 errors caused by CME or instruction provided by CONTRACTOR.

4 3. CUSTOMER SITE VISITS

5 Site visits to COUNTY sites, as may be requested in writing by COUNTY,
6 and that are within the scope of the project services, are available for reasons
7 including, but not limited to, (1) additional system training on hardware or
8 software usage; (2) resolution of system difficulties not resulting from actions by,
9 or otherwise the responsibility of CONTRACTOR (as determined by mutual
10 agreement between CONTRACTOR and COUNTY); (3) installation of Software
11 Releases; and (4) assistance in equipment maintenance, movement or
12 diagnosis. CONTRACTOR will review site visits outside of the scope of project
13 services, which must be requested in writing in advance by COUNTY's Contract
14 Administrator. Charges will be at rates identified in this Agreement, plus
15 reasonable travel costs.

16 4. CUSTOM PROGRAMMING

17 Requests for supplemental programming or customization of system
18 features not covered under this Agreement are available to COUNTY. Such
19 requests will be reviewed by CONTRACTOR, and must be requested in writing in
20 advance by the COUNTY's Contract Administrator. Charges will be at rates
21 identified in this Agreement.

22 E. CONTRACTOR PROJECT COORDINATOR

23 Upon execution of this Agreement, CONTRACTOR shall appoint a
24 Project Coordinator, who will act as the primary contact person to interface with
25 COUNTY for implementation, maintenance and support of CME.
26
27

1 F. SYSTEM UPDATES AND NEW PRODUCTS

2 1. SYSTEM UPDATES

3 From time to time, CONTRACTOR will develop and provide System
4 Updates to COUNTY for COUNTY'S licensed CONTRACTOR software. System
5 Updates shall be subject to the terms and conditions of this Agreement, shall be
6 deemed licensed System Software hereunder, and will be made available to
7 COUNTY at no additional charge to COUNTY. System Updates will be made
8 available to COUNTY at the discretion of CONTRACTOR, and will not be
9 unreasonably withheld.

10 2. NEW PRODUCTS

11 CONTRACTOR may from time to time release new software with
12 capabilities substantially different from or greater than the System Software
13 ("New Products"), which therefore do not constitute System Updates. These New
14 Products will be made available to COUNTY at a cost not to exceed
15 CONTRACTOR's then standard rates for similarly situated customers.

16 G. OPERATING SYSTEM UPDATES

17 The application must run on an operating system (O/S) that is
18 consistently and currently supported by the operating system vendor. O/S
19 applications are expected to be assessed for maintenance no less than once per
20 year. An outdated or unsupported O/S will not be implemented on the production
21 network.

22 COUNTY will notify CONTRACTOR when a critical security patch is
23 released. CONTRACTOR will have thirty (30) days to ensure application can
24 perform in the updated environment. With approval from CONTRACTOR,
25 COUNTY will apply patches to both the operating system, and non-critical
26 security subsystems as releases are available from operating system vendors.
27 The application must perform in this environment. CONTRACTOR shall update

1 O/S applications no less than once per year from any given date. These patches
2 include critical O/S updates and security patches.

3 H. ANTI-VIRUS MANAGEMENT

4 COUNTY will actively run anti-virus management, where appropriate, on
5 all application servers and PCs. The application is expected to perform
6 adequately while anti-virus management is active.

7 I. ADHERE TO CHANGE CONTROL PROCESS

8 CONTRACTOR must adhere to COUNTY's Change Control Process,
9 which shall be provided to CONTRACTOR in writing. COUNTY employs a
10 procedure to implement updates, upgrades, and version releases to a system
11 that is in production use. This forum allows the Sheriff's Office to inform staff
12 (Help Desk, Network, Server, Database, Security, and Analysts) of upcoming
13 changes to a production system. CONTRACTOR must inform the Sheriff's Office
14 a minimum of one (1) week prior to any planned, non-emergency changes, so
15 that the Change Control Process may be followed.

16 J. OTHER

17 Unless otherwise specified for third-party software, CONTRACTOR shall
18 provide standard documentation in electronic form (via the Internet or File
19 Transfer Protocol (FTP)).

20 The System runs in a Local Area Network and Web environment. As
21 such, the performance of the System is directly related to, among other things:
22 available network bandwidth, and the performance of other applications. For this
23 reason, CONTRACTOR makes no guarantees as to System response time.

24 K. Protected Health Information

25 While providing the Services, it is not necessary for CONTRACTOR to
26 receive, create, maintain or transmit personally identifiable data, including without
27 limitation, Protected Health Information ("PHI"), as defined in the Health

1 Insurance Portability and Accountability Act of 1996 (“HIPAA”), on behalf of
2 COUNTY. COUNTY agrees not to: (i) permit CONTRACTOR to access, receive,
3 create, maintain, or transmit such personally identifiable data; or, (ii) to send
4 CONTRACTOR any personally identifiable data related to the Services.
5

6 **III. OBLIGATIONS AND RIGHTS OF THE COUNTY**

7 **A. COUNTY RESPONSIBILITIES**

- 8 1. Install the Program in COUNTY’s facility at the Site specified on the
9 front page of this Agreement.
- 10 2. Procure, install, and operate computers, printers and operating
11 systems required to run the Program.
- 12 3. Use and execute the Program on the computer(s) at COUNTY’s Site
13 on a per user basis, for purposes of serving the internal needs of
14 COUNTY.
- 15 4. Provide a proper environment and proper utilities for the computers on
16 which the Program operates, including an uninterrupted power supply.
- 17 5. Select and train personnel to operate computers and the Program
18 effectively.
- 19 6. Appoint a qualified system administrator with sufficient computer
20 hardware and software experience to coordinate with CONTRACTOR
21 in diagnosing reported problems and errors.
- 22 7. Nominate a single contact person, to interface with CONTRACTOR
23 on all Support calls from COUNTY. Such nominated single contact
24 person shall either be the System Administrator, or someone who is
25 similarly technically qualified; and
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27
28

1 D. COUNTY CONTRACT ADMINISTRATOR

2 COUNTY appoints the Sheriff or her designee as COUNTY's Contract
3 Administrator, with full authority to deal with CONTRACTOR in all matters
4 concerning this Agreement.

5 COUNTY'S Contract Administrator is authorized to amend this
6 Agreement, with consent of the County Administrative Office, to adopt an
7 updated pricing structure consistent with an amended software solution and
8 renewal dates, not to exceed maximum expenditure limits as listed in section
9 VI(A).

10 E. CONTRACTOR RESPONSE COMMITMENT

11 COUNTY will follow its present practices to safeguard System Software
12 delivered to COUNTY by CONTRACTOR. A copy of COUNTY'S "Information
13 Technology (IT) Standards and Preferences" will be made available upon request

14 F. OBJECT CODE

15 The Program is provided in, and may be used in, machine-readable
16 object code form only.

17 G. NUMBER OF USERS

18 COUNTY is authorized to use the Program for up to the number of users
19 defined in Section VI.

- 20 1. Additional User Licenses. In the event the COUNTY desires to exceed
21 the authorized number of users, as specified in Section VI, COUNTY
22 will contact CONTRACTOR to determine the increase to the annual
23 Maintenance fee.

24 H. SAFEGUARDING SYSTEM SOFTWARE

25 COUNTY will follow its present practices to safeguard System Software
26 delivered to COUNTY by CONTRACTOR. A copy of COUNTY'S "Information
27

1 Technology (IT) Standards and Preferred Practices” will be made available upon
2 request.

- 3 1. COUNTY utilizes a backup and recovery system written and
4 maintained by VEEAM Software. This application requires a backup
5 agent to run on the server.
- 6 2. COUNTY may make two (2) copies of the Program in machine-
7 readable, object code form, for nonproductive backup purposes only,
8 provided that COUNTY reproduces and includes CONTRACTOR's
9 copyright notice and proprietary legend on each backup copy. Each
10 backup copy must be stored in a safe and secure location.
- 11 3. System Operations: System shall operate as per CONTRACTOR's
12 current Program user manual.
- 13 4. COUNTY will provide CONTRACTOR with an account with
14 appropriate administrative rights to administer the application. The
15 account password shall periodically expire.
- 16 5. In order for the application to run on COUNTY-supported servers, the
17 application must not require the users to have administrative rights on
18 the servers.
- 19 6. COUNTY, at all times, during and after the performance of the
20 installation of the System Software, is responsible for maintaining
21 adequate data backups to protect against loss of data.

22 I. COUNTY INSTALLATION AND TECHNICAL ASSISTANCE

- 23 1. Technical assistance from COUNTY Sheriff's Office IT staff will be
24 provided during the performance of the installation of the System
25 Software. In particular, COUNTY will provide:
 - 26 a) Network connectivity and troubleshooting assistance.
 - 27 b) Ability to monitor network traffic and isolate bottlenecks.

1 c) Technical assistance concerning the integration with existing
2 COUNTY systems (if applicable).

3 d) Expertise to handle issues with PCs, printers, and cabling before,
4 during, and after roll-out.

5 J. ACCEPTANCE TESTING

6 Following delivery and installation, CONTRACTOR shall test CME, along
7 with COUNTY personnel. COUNTY shall approve Final System Acceptance
8 when CME has been successfully tested and satisfactorily performs all functions
9 necessary pursuant to this Agreement, and COUNTY has received all
10 deliverables identified in this Agreement as required for acceptance.

11 K. FACILITIES AND PREPARATION

12 COUNTY will, at its own expense, provide all necessary labor and
13 materials for site preparation, electrical services, and cabling required for System
14 Installation. COUNTY shall receive the System Software, and will follow
15 instructions provided by CONTRACTOR to load it on COUNTY's System
16 Hardware to prepare the System for processing.

17 L. SYSTEM HARDWARE AND SYSTEM SOFTWARE

18 COUNTY will, at its own expense, provide and properly maintain and
19 update, on an ongoing basis, all necessary COUNTY System Software and
20 COUNTY System Hardware required to operate CME. Said COUNTY System
21 Software and COUNTY System Hardware shall meet CONTRACTOR's
22 recommendations.

23 As part of COUNTY's responsibility for computer infrastructure, COUNTY
24 is responsible for ensuring that data is secure and protected at all times.
25 CONTRACTOR is not responsible for, and cannot be held liable for, inadvertent
26 data disclosure or theft from COUNTY facilities.

1 M. COUNTY PROJECT MANAGER

2 Upon execution of this Agreement, COUNTY's Contract Administrator
3 shall designate one individual from the Sheriff's Office IT Unit, who will function
4 as Project Manager, with responsibility for day-to-day management of the project
5 for implementation of CME. The Project Manager and COUNTY personnel shall
6 have the necessary and appropriate training and experience to implement the
7 terms of this Agreement. COUNTY acknowledges CONTRACTOR'S reliance on
8 same.

9 N. RESPONSIBILITY FOR PUBLIC HEALTH INFORMATION

10 The Software has no requirement for creation, receipt, maintenance or
11 transmission of, nor does it provide for the creation, receipt, maintenance or
12 transmission of any personally identifiable information ("PII") or protected health
13 information ("PHI"). The only information comprising the Data or Output is
14 information concerning COUNTY's HIPAA Compliance program, its information
15 systems used to create, receive, maintain or transmit sensitive information,
16 and/or its information risk management program.

17 COUNTY agrees to take reasonable steps to ensure that Authorized
18 Users do not upload or otherwise enter any PHI or PII into the Software. In
19 developing the Software, CONTRACTOR has made commercially reasonable
20 efforts to interpret and apply the provisions and requirements of the HIPAA
21 Security Rule, the HIPAA Privacy Rule, and the HIPAA Breach Notification Rule
22 (the "Rules"), and recommended standards and best practices as set forth by the
23 Office for Civil Rights ("OCR") under such Rules.

24 When used as designed, the Software provides a consistent approach to
25 the performance of certain activities required or suggested by the Rules by
26 guiding the User through a series of questions. The Software follows a
27 proprietary decision flow to pose such series of questions, capture the User's

1 responses and, based on those responses, allows the Software to calculate
2 certain proprietary compliance and/or risk management rating(s), highlight
3 additional controls COUNTY might consider implementing, and suggest tasks
4 that COUNTY might consider completing in managing identified risks or closing
5 compliance gaps. Although the Subscriptions to the Software shall support and
6 promote COUNTY's compliance with the Rules, COUNTY's purchase of
7 Subscription(s) to the Software, alone, does not assure COUNTY's compliance
8 with the Rules.

9
10 IV. **TERM**

11 The term of this Agreement shall be for a period of two years and eleven-
12 and-one-half months, retroactively commencing on July 15, 2019, through and
13 including June 30, 2022. This Agreement shall automatically renew for two (2)
14 additional consecutive twelve (12) month periods, beginning on July 1, 2022,
15 unless terminated earlier according to the terms of this Agreement.

16
17 V. **TERMINATION**

18 A. **TERMINATION WITHOUT CAUSE.**

19 Either party may elect to terminate this Agreement upon ninety (90) days
20 written notice, prior to the renewal of any one (1) year term.

21 B. **NON-ALLOCATION OF FUNDS**

22 The terms of this Agreement, and the services to be provided thereunder,
23 are contingent on the approval of funds by the appropriating government agency.
24 Should sufficient funds not be allocated, the services provided may be modified,
25 or this Agreement terminated, at any time without penalty, by giving
26 CONTRACTOR ninety (90) days' advance written notice.

1 C. BREACH OF CONTRACT

- 2 1. Failure to pay any moneys due to CONTRACTOR under this
3 Agreement, within forty-five (45) days of receipt of written notice of
4 such failure from CONTRACTOR;
- 5 2. Any non-breaching party may terminate this Agreement for breach of
6 any material term, condition, or covenant in this Agreement if the
7 breaching party has failed to cure such breach within thirty (30) days
8 receipt of written notice of such failure;
- 9 3. Either party may terminate this Agreement in the event the other
10 party: (i) is or becomes insolvent, (ii) is or becomes a party to any
11 bankruptcy or receivership proceeding or any similar action affecting
12 the financial condition or property of that party, if such proceeding has
13 not been dismissed within 30 days, or (iii) makes a general
14 assignment for the benefit of creditors;

15 D. BREACH BY COUNTY

16 CONTRACTOR may immediately suspend or terminate this Agreement in
17 whole or in part, where, in the determination of the CONTRACTOR, a breach of
18 Section II-A-3 (proprietary rights) has occurred

19 E. BREACH BY CONTRACTOR

20 COUNTY may immediately suspend or terminate this Agreement in whole
21 or in part, where in the determination of the COUNTY there is:

- 22 1. A failure to comply with any term of this Agreement;
- 23 2. Improperly performed service as defined by the expectations and
24 deliverables outlined in this Agreement.

25 In no event shall any payment by the COUNTY constitute a waiver by
26 COUNTY of any breach of this Agreement or any default which may then exist on
27 the part of CONTRACTOR. Neither shall such payment impair or prejudice any

1 remedy available to COUNTY with respect to the breach or default. COUNTY
2 shall have the right to demand of CONTRACTOR the repayment to the COUNTY
3 of any funds disbursed to CONTRACTOR under this Agreement, which in the
4 judgment of COUNTY were not expended in accordance with the terms of this
5 Agreement. CONTRACTOR shall promptly refund any such funds upon demand.

6 F. CONSEQUENCES OF TERMINATION.

7 Upon termination, COUNTY agrees to stop using the Program and
8 destroy all copies in COUNTY's possession, and shall certify COUNTY's
9 compliance in writing, signed by an authorized representative of COUNTY
10 organization, within five (5) days of the date of termination. COUNTY shall be
11 responsible for taking adequate precautions to prevent any loss of COUNTY's
12 own data. Upon termination, all payments due to CONTRACTOR up until the
13 date of termination shall immediately be due and payable.

14 G. RIGHT TO DISABLE SOFTWARE.

15 In the event that COUNTY fails to cure any material breach in the times
16 specified above, CONTRACTOR reserves the right to electronically disconnect
17 COUNTY's use of the Program, until such breach is cured.

18 H. WITHOUT CAUSE

19 Under circumstances other than those set forth above, COUNTY may
20 terminate this Agreement in full or in part by giving ninety (90) days advance
21 written notice of an intention to terminate to CONTRACTOR.

22
23 VI. COMPENSATION/INVOICING

24 A. TOTAL AGREEMENT AMOUNT

25 COUNTY agrees to pay CONTRACTOR, and CONTRACTOR agrees to
26 receive annual compensation, as displayed in the following rate tables,
27 regardless of whether COUNTY seeks reimbursement for such costs from

1 individual cases or clients. COUNTY agrees to pay annual fees for Third Party
2 Software support and maintenance in cases where solicited.

3 CONTRACTOR's current per diem rate is defined in this Section VI, and
4 applies to training either on site or via electronic interface, on site installation, on-
5 site consulting services, and custom programming. Maintenance fees do not
6 include travel expenses incurred while providing services to COUNTY under this
7 Agreement, shipping charges, or the costs of any recommended hardware.
8 COUNTY agrees to pay such fees and costs, when and as the services are
9 rendered and/or such expenses are incurred, upon receipt of invoice from
10 CONTRACTOR. CONTRACTOR reserves the right to require prepayment or
11 advance deposit for services and/or expenses.

12 In no event shall total compensation paid for all services performed under
13 this Agreement exceed \$258,980 during the entire potential five-year term of this
14 Agreement: the total compensation paid for a partial (prorated) first year, through
15 the third year of web-based CME-V3 **without** cloud-based hosting is \$98,050,
16 not to exceed \$137,260 if extended for a 4th and 5th year. The expenditure
17 maximum for conversion from DOS to the web-based CME – V3 operating
18 system is a one-time cost of \$66,480. The potential maximum 5-year expenditure
19 for support services is \$7,000. The potential, additional cost for utilization of
20 cloud-based data-hosting provided by VertiQ for the first three-year base term, is
21 an additional \$28,225, not to exceed \$48,240 if extended for a 4th and 5th year.

22 It is understood that all expenses incidental to CONTRACTOR'S
23 performance of services under this Agreement shall be borne by
24 CONTRACTOR.

25 CONTRACTOR may increase Annual Maintenance and Support fees, as
26 well as additional License/Services Fees, upon sixty (60) days' advance written
27 notice to COUNTY, provided that CONTRACTOR not increase such fees more
28

1 than once in any one year period, and provided that each increase will not
2 exceed the previous fees by the lesser of (i) three percent (3%) per year or (ii)
3 the cumulative percentage increase in the Consumer Price Index, All Urban
4 Consumers for the U.S., during the previous year.

5 All Maintenance fees will be subject to a 3% COL increase annually. If
6 COUNTY requires additional users, fees will be increased accordingly.

7 B. INVOICING

8 CONTRACTOR shall submit invoices, either electronically or via mail, to
9 the COUNTY's Contract Administrator specified in Section XVI entitled "Notices",
10 hereinbelow. COUNTY will pay CONTRACTOR within forty-five (45) days of
11 receipt of a proper invoice, by mail addressed to CONTRACTOR's remittance
12 address at PO Box 787 Morgan Hill CA 95037.

13 C. LATE CHARGES

14 If any fee or cost is not paid within forty-five (45) days after it is due,
15 CONTRACTOR may, at its option, charge interest at a rate of one and one-half
16 percent (1½%) per month (eighteen percent (18%) per annum) or, if less, the
17 highest rate allowed by applicable law, from the date such fee or charge first
18 became due.

19
20 //

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22 //

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24 //

D. CHARGEABLE SERVICES FOR CME-V3 UPGRADE

Project Services – based on use of CME-V3 Application	Number of Days	Total
Installation for in-house environment for testing and production	2	\$2,800
Preliminary training upon install in order for the customer to proceed with gap analysis	1	\$1,400
Customization:		
Based on the provided VertiQ Application Summary Description document. This includes: Body Storage	6	\$10,080
Add 20 fields from the VAST version to the V3 application to perform a complete data migration	2	\$2,800
Data Migration:		
Creation of SSIS kit in accordance with data mapping listing all 375 fields that will be mapped. Test scripts and QA for data conversion	24	\$33,600
Image conversion included as in VAST database	1	\$1,400
Document conversion included as in VAST database	1	\$1,400
Report Development, Training and Acceptance Testing:		
Redevelopment of 29 templates submitted dev and QA - to be completed by <i>Sheriff's Office IT Unit</i>	0	\$0
Development of reports to be developed by <i>Sheriff's Office IT Unit</i>	0	\$0
System Administrator via WebEx up to 8 hours	1	\$1,400
End User Training via WebEx	2	\$2,800
Support for acceptance testing, & moving the system into production	2	\$2,800
Estimates Services	42	\$60,480
NMS Integration - Work with NMS team to configure web services that will allow for the importing of Tox related data. Includes test of incoming Toxicology results and running the NMS report from within CME. Note: NMS is the responsible party involved in sending the information to VertiQ for toxicology results. VertiQ only processes the information that is sent by NMS using their methods and protocols.		\$6,000
TOTAL SERVICES		\$66,480

VertiQ reserves the right to utilize funds from one service item to another if those funds are available; otherwise a change order will be required.

ANNUAL MAINTENANCE/SUPPORT FEES

Year 1		
	Addition of 10 new user licenses (one-time fee)	\$43,750
	Current Maintenance due to for 5 users: Effective 07/15/2019 – 6/30/2020	\$8,925
	Maintenance fees for Additional 10 users: Effective 07/15/2019 – 6/30/2020	\$8,415
	Total Annual First-Year Fees: Effective 07/15/2019 – 06/30/2022	\$61,090
Year 2		
	Annual Usage fees for 15 users: Effective 7/1/2020	\$18,205
Year 3		
	Annual Usage fees for 15 users: Effective 7/1/2021	\$18,755
Year 4		
	Annual Usage fees for 15 users: Effective 7/1/2022	\$19,315
Year 5		
	Annual Usage fees for 15 users: Effective 7/1/2023	\$19,895
	Total CTI Annual Maintenance Fees	\$137,260

1 COUNTY's site at a mutually agreed time. Such training is subject to the
2 CONTRACTOR per diem rates and travel expense, defined in Section VI.

3 B. HIPAA AND PRIVACY TRAINING.

4 Software Training will exclude training on general subjects not directly related to
5 the functionality of and administration of the Software and the Subscriptions,
6 such as, but not limited to, general HIPAA or state privacy or security regulations
7 and compliance, risk analysis and risk management requirements or processes,
8 National Institute of Standards and Technology ("NIST") publications and
9 requirements, and the like.

10
11 VIII. INDEPENDENT CONTRACTOR:

12 In performance of the work, duties and obligations assumed by
13 CONTRACTOR under this Agreement, it is mutually understood and agreed that
14 CONTRACTOR, including any and all of the CONTRACTOR'S officers, agents,
15 and employees will at all times be acting and performing as an independent
16 contractor, and shall act in an independent capacity and not as an officer, agent,
17 servant, employee, joint venturer, partner, or associate of the COUNTY.

18 Furthermore, COUNTY shall have no right to control or supervise or direct the
19 manner or method by which CONTRACTOR shall perform its work and function.
20 However, COUNTY shall retain the right to administer this Agreement so as to
21 verify that CONTRACTOR is performing its obligations in accordance with the
22 terms and conditions thereof.

23 CONTRACTOR and COUNTY shall comply with all applicable provisions
24 of law and the rules and regulations, if any, of governmental authorities having
25 jurisdiction over matters the subject thereof.

26 Because of its status as an independent contractor, CONTRACTOR shall
27 have absolutely no right to employment rights and benefits available to COUNTY

1 employees. CONTRACTOR shall be solely liable and responsible for providing
2 to, or on behalf of, its employees all legally-required employee benefits. In
3 addition, CONTRACTOR shall be solely responsible and save COUNTY
4 harmless from all matters relating to payment of CONTRACTOR'S employees,
5 including compliance with Social Security withholding and all other regulations
6 governing such matters. It is acknowledged that during the term of this
7 Agreement, CONTRACTOR may be providing services to others unrelated to the
8 COUNTY or to this Agreement.

9
10 IX. **MODIFICATION**

11 Any matters of this Agreement may be modified from time to time by the
12 written consent of all the parties without, in any way, affecting the remainder.

13
14 X. **NON-ASSIGNMENT**

15 Neither party shall assign, transfer or sub-contract this Agreement nor
16 their rights or duties under this Agreement without the prior written consent of the
17 other party.

18
19 XI. **INDEMNIFICATION/HOLD HARMLESS**

20 A. **INDEMNIFICATION.**

21 If a third party claims that the Program infringes any U.S. patent,
22 copyright, or trade secret, CONTRACTOR will (as long as COUNTY is not in
23 default under this Agreement or any other agreement with CONTRACTOR)
24 defend, indemnify, and hold COUNTY harmless against such claim, at
25 CONTRACTOR's sole expense, and pay all damages, provided that COUNTY
26 promptly notifies CONTRACTOR in writing of the claim, cooperates with
27

1 CONTRACTOR, and allows CONTRACTOR to control the defense or any related
2 settlement negotiations.

3 B. RIGHT TO CURE.

4 If such a claim is made or appears possible, CONTRACTOR may, at its
5 option, secure for COUNTY the right to continue to use the Program, modify or
6 replace the Program so they are non-infringing, or, if neither of the foregoing
7 options is available in CONTRACTOR's judgment, require COUNTY to return the
8 Program at CONTRACTOR's cost, or destroy the Program, for a refund equal to
9 the portion of previously paid License fees allocable to the remaining term of
10 COUNTY's License.

11 C. NO OBLIGATION.

12 CONTRACTOR has no obligation for any claim based on a modified
13 version of the Program or their combination, operation, or use with any product,
14 data, or apparatus not provided by CONTRACTOR.

15 CONTRACTOR agrees to indemnify, save, hold harmless, and defend
16 the COUNTY, its officers, agents, and employees from any and all costs and
17 expenses (including attorney's fees and costs), damages, liabilities, claims, and
18 losses, and any and all claims, damages, costs, fees, regulatory fines and
19 penalties, and forms of legal action involving Cyber Risks, occurring or resulting
20 to COUNTY in connection with the performance, or failure to perform, by
21 CONTRACTOR, its officers, agents, or employees under this Agreement, and
22 from any and all costs and expenses (including attorney's fees and costs),
23 damages, liabilities, claims, and losses, and any and all claims, damages, costs,
24 fees, regulatory fines and penalties, and forms of legal action involving Cyber
25 Risks, occurring or resulting to any person, firm, or corporation who may be
26 injured or damaged by the performance, or failure to perform, of CONTRACTOR,
27 its officers, agents, or employees under this Agreement.

1 COUNTY agrees to indemnify, save, hold harmless, and at
2 CONTRACTOR'S request, defend the CONTRACTOR, its officers, agents, and
3 employees from any and all costs and expenses (including attorney's fees and
4 costs), damages, liabilities, claims, and losses occurring or resulting to
5 CONTRACTOR in connection with the performance, or failure to perform, by
6 COUNTY, its officers, agents, or employees under this Agreement, and from any
7 and all costs and expenses (including attorney's fees and costs), damages,
8 liabilities, claims, and losses occurring or resulting to any person, firm, or
9 corporation who may be injured or damaged by the performance, or failure to
10 perform, of COUNTY, its officers, agents, or employees under this Agreement.

11 In the event of a claim of alleged infringement of patent rights, copyright,
12 trade secret rights, or intellectual property rights, to the fullest extent permitted by
13 law, CONTRACTOR agrees to, and shall indemnify, save, hold harmless, and at
14 COUNTY's request, defend COUNTY, including its officers, officials, agents, and
15 employees from any and all demands, costs and expenses, penalties, attorney's
16 fees and court costs, damages of any nature whatsoever (including, without
17 limitation, injury or damage to or loss or destruction of property), judgments
18 (including, without limitation, amounts paid in settlement and amounts paid to
19 discharge judgments), liabilities, claims and losses, suits, actions or proceedings
20 of every name, kind and description occurring or resulting to COUNTY, out of or
21 in connection with any claim that is based on the infringement (or assertions of
22 infringement) of any of patent rights, copyright, trade secret rights, or intellectual
23 property rights with respect to services, software, or any Equipment provided by
24 CONTRACTOR as part of this Agreement, including, but not limited to, their
25 materials, designs, techniques, processes and information supplied or used by
26 CONTRACTOR or any of CONTRACTOR's subcontractor of any tier in
27 performing or providing any portion of CONTRACTOR's obligations as outlined in

1 this Agreement. If, in any suit, action, proceeding or claim relating to the
2 foregoing, a temporary restraining order or preliminary injunction is granted,
3 CONTRACTOR shall make every reasonable effort to secure the suspension of
4 the injunction or restraining order. If, in any such suit, action, proceeding or claim,
5 the services, software or any Equipment provided by CONTRACTOR or any part,
6 combination or process thereof, is held to constitute an infringement and its use
7 is enjoined, CONTRACTOR shall immediately (a) pay the reasonable direct out-
8 of-pocket costs and expenses to secure a license to use such infringing work,
9 replace the infringing work or modify the same so that it becomes non-infringing,
10 and (b) make every reasonable effort to secure for the COUNTY a license, at no
11 cost to COUNTY, authorizing COUNTY's continued use of the infringing work. If
12 CONTRACTOR is unable to secure such license within a reasonable time,
13 CONTRACTOR, at its own expense and without impairing performance
14 requirements of the services, software, or any Equipment provided by
15 CONTRACTOR as part of this Agreement, shall either replace the affected
16 services, software, or any Equipment provided by CONTRACTOR as part of this
17 Agreement, combination or process thereof, with non-infringing services,
18 software, or other equipment, or modify the same so that they become non-
19 infringing.

20 The provisions of this Section XI shall survive termination of this
21 Agreement.

22
23 XII. **INSURANCE**

24 Without limiting COUNTY's right to obtain indemnification from
25 CONTRACTOR or any third parties, CONTRACTOR, at its sole expense, shall
26 maintain in full force and effect, the following insurance policies or a program of
27

1 self-insurance, including but not limited to, an insurance pooling arrangement or
2 Joint Powers Agreement (JPA) throughout the term of the Agreement:

3 A. COMMERCIAL GENERAL LIABILITY

4 Commercial General Liability Insurance with limits of not less than One
5 Million Dollars (\$1,000,000.00) per occurrence and an annual aggregate of Two
6 Million Dollars (\$2,000,000.00). This policy shall be issued on a per occurrence
7 basis. COUNTY may require specific coverages including completed operations,
8 products liability, contractual liability, Explosion-Collapse-Underground, fire legal
9 liability or any other liability insurance deemed necessary because of the nature
10 of this contract.

11 B. AUTOMOBILE LIABILITY

12 Comprehensive Automobile Liability Insurance with limits of not less than
13 One Million Dollars (\$1,000,000.00) per accident for bodily injury and for property
14 damages. Coverage should include any auto used in connection with this
15 Agreement.

16 C. TECHNOLOGY PROFESSIONAL LIABILITY (ERRORS AND
17 OMISSIONS)

18 Technology Professional Liability (Errors and Omissions) Insurance
19 appropriate to CONTRACTOR's profession, with limits not less than Two Million
20 Dollars (\$2,000,000) per occurrence or claim, three Million Dollars (\$3,000,000)
21 aggregate. Coverage shall be sufficiently broad to respond to the duties and
22 obligations as is undertaken by CONTRACTOR in this Agreement and may
23 include, but not be limited to infringement of copyright, trademark, trade dress,
24 invasion of privacy violations, information theft, damage to or destruction of
25 electronic information, release of private information, alteration of electronic
26 information, extortion and network security. The policy may provide coverage for
27

1 breach response costs as well as regulatory fines and penalties as well as credit
2 monitoring expenses with limits sufficient to respond to these obligations.

3 D. CYBER LIABILITY

4 CONTRACTOR shall obtain cyber liability insurance with limits not less
5 than Two Million Dollars (\$2,000,000) per occurrence. Coverage shall include,
6 but not be limited to, claims involving Cyber Risks. The cyber liability policy shall
7 be endorsed to cover the full replacement value of damage to, alteration of, loss
8 of, or destruction of intangible property (including but not limited to information or
9 data) that is in the care, custody, or control of the CONTRACTOR.

10 For purposes of the technology professional liability insurance and the
11 cyber liability insurance required under this Agreement, Cyber Risks include, but
12 are not limited to, (i) security breaches, which include disclosure of, whether
13 intentional or unintentional, information provided by COUNTY, information
14 provided by or obtained from any inmate, or personal-identifying information
15 relating to any inmate, to an unauthorized third party; (ii) breach of any of
16 CONTRACTOR's obligations under this Agreement relating to data security,
17 protection, preservation, usage, storage, transmission, and the like; (iii)
18 infringement of intellectual property including, but not limited to, infringement of
19 copyright, trademark, and trade dress; (iv) invasion of privacy, including any
20 release of private information; (v) information theft by any person or entity,
21 whatsoever; (vi) damage to or destruction or alteration of electronic information;
22 (vii) extortion related to CONTRACTOR's obligations under this Agreement
23 regarding electronic information, including information provided by COUNTY,
24 information provided by or obtained from any inmate, or personal-identifying
25 information relating to any inmate; (viii) network security; (ix) data breach
26 response costs, including security breach response costs; (x) regulatory fines
27 and penalties related to CONTRACTOR's obligations under this Agreement

1 regarding electronic information, including information provided by COUNTY,
2 information provided by or obtained from an inmate, or personal-identifying
3 information relating to any inmate; and (xi) credit monitoring expenses.

4 E. PROFESSIONAL LIABILITY

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

9 F. WORKER'S COMPENSATION

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

12 G. ADDITIONAL REQUIREMENTS RELATING TO INSURANCE

13 CONTRACTOR shall obtain endorsements to the Commercial General
14 Liability insurance naming the County of Fresno, its officers, agents, and
15 employees, individually and collectively, as additional insured, but only insofar as
16 the operations under this Agreement are concerned. Such coverage for
17 additional insured shall apply as primary insurance and any other insurance, or
18 self-insurance, maintained by COUNTY, its officers, agents and employees shall
19 be excess only and not contributing with insurance provided under
20 CONTRACTOR's policies herein. This insurance shall not be cancelled or
21 changed without a minimum of thirty (30) days advance written notice given to
22 COUNTY.

23 CONTRACTOR hereby waives its right to recover from COUNTY, its
24 officers, agents, and employees any amounts paid by the policy of worker's
25 compensation insurance required by this Agreement. CONTRACTOR is solely
26 responsible to obtain any endorsement to such policy that may be necessary to
27 accomplish such waiver of subrogation, but CONTRACTOR's waiver of

1 subrogation under this paragraph is effective whether or not CONTRACTOR
2 obtains such an endorsement.

3 Within Thirty (30) days from the date CONTRACTOR signs and executes
4 this Agreement, CONTRACTOR shall provide certificates of insurance and
5 endorsement as stated above for all of the foregoing policies, as required herein,
6 to the Contract Administrator specified in Section XVI entitled "Notices",
7 hereinbelow, stating that such insurance coverage have been obtained and are
8 in full force; that the County of Fresno, its officers, agents and employees will not
9 be responsible for any premiums on the policies; that for such worker's
10 compensation insurance the CONTRACTOR has waived its right to recover from
11 the COUNTY, its officers, agents, and employees any amounts paid under the
12 insurance policy and that waiver does not invalidate the insurance policy; that
13 such Commercial General Liability insurance names the County of Fresno, its
14 officers, agents and employees, individually and collectively, as additional
15 insured, but only insofar as the operations under this Agreement are concerned;
16 that such coverage for additional insured shall apply as primary insurance and
17 any other insurance, or self-insurance, maintained by COUNTY, its officers,
18 agents and employees, shall be excess only and not contributing with insurance
19 provided under CONTRACTOR's policies herein; and that this insurance shall not
20 be cancelled or changed without a minimum of thirty (30) days advance, written
21 notice given to COUNTY.

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

1 All policies shall be issued by admitted insurers licensed to do business in
2 the State of California, and such insurance shall be purchased from companies
3 possessing a current A.M. Best, Inc. rating of FSC VII or better.
4

5 XIII. **ADDITIONAL SERVICES AND SYSTEM REQUIREMENTS**

6 A. **INSTALLATION**

7 Installation by CONTRACTOR cannot begin until COUNTY's Sheriff's
8 Office IT Unit has a server in place with all of the minimal recommendations, as
9 supplied in CONTRACTOR's 'Hardware/Software Requirements' document.
10 CONTRACTOR will not install unless COUNTY's server is properly prepared.
11 CONTRACTOR can assist in helping COUNTY set up the server for an additional
12 charge. This includes, and is limited to, IIS configuration, SQL CONTRACTOR
13 DB restores and updates.

14 CONTRACTOR is able to perform the installation more effectively while
15 having VPN full access to the test server and database. If CONTRACTOR is not
16 provided with full VPN access, additional time will be needed to perform the
17 install. This will constitute a chargeable expense. There should be both a testing
18 and production environment set up.

19 B. **CONVERSION**

20 CONTRACTOR will need to run the Daily Balance Report from the first
21 transaction date for each database prior to conversion. Any account(s) out of
22 balance will need to be corrected before CONTRACTOR can begin the
23 conversion process. If it takes CONTRACTOR more than 2 hours to resolve
24 these issues, the additional time to resolve will be charged to the COUNTY.

25 CONTRACTOR will map the data elements from COUNTY's current CME
26 system to the standard fields in the CME-V3 database. If there is a field needed
27 that does not exist in CME-V3, it will require a modification, and will constitute
28

1 additional costs. The data should be clean prior to submission to CME for
2 mapping. CONTRACTOR will perform a trial conversion of the existing data for
3 Customer review in the CME-V3 application. CONTRACTOR will allow 30 days
4 for COUNTY to review the converted data once it has been installed. If COUNTY
5 is non-responsive, it will be assumed COUNTY has approved the data
6 conversion, and COUNTY will be invoiced for the services performed.
7 CONTRACTOR will then perform a final conversion of the data.

8 Prior to the final conversion, COUNTY must sign off on the converted
9 data and system changes.

10 C. CUSTOMIZATION

11 Additional modifications requested by COUNTY will be completed by
12 CONTRACTOR at CONTRACTOR's per diem rate. Customization will require
13 establishment of a Statement of Work (SOW), to be approved by both parties.
14 Upon establishment of the SOW, development will be scheduled, and the
15 modifications installed. CONTRACTOR will allow 30 days for COUNTY to review
16 the modifications for sign-off once they have been installed. If COUNTY is non-
17 responsive, it will be assumed to be approved, and COUNTY will be invoiced for
18 services performed.

19 D. REPORT DEVELOPMENT

20 CONTRACTOR and COUNTY support the use of Microsoft SQL
21 Reporting Services (SRS) for report development. SRS is a free report-writing
22 tool with extensive functionality. Additionally, the search engine capabilities and
23 form grids can filter inquiries that can be saved to a report.

24 CME-V3 includes a set of "canned" reports. Any additional reports
25 deemed necessary by COUNTY to be designed by CME or integrated with
26 another report service will be chargeable at CME's per diem rate. Additional
27 Reports have not been quoted at this time.

1 Court Accounting reporting can be a variable to each individual agency.
2 CONTRACTOR has a standard Court Accounting report. Should COUNTY wish
3 CONTRACTOR to customize this report to fit COUNTY needs, this will constitute
4 a chargeable expense.

5 E. NAVIGATION

6 CONTRACTOR will provide WebEx training to show COUNTY users how
7 to navigate through the new application, in order for them to perform duties
8 associated with conversion and customization, should it be applicable.






9 F. SYSTEM ADMINISTRATOR TRAINING

10 1. COUNTY's internal system administrator will need to learn how to
11 manage the new system. This will include:

- 12 • Change captions and tool tips, directly on each page or in a
13 central admin page.
- 14 • Create and edit Help contents from an admin page
- 15 • Create and edit users
- 16 • Create and edit list items
- 17 • Add and modify Organizations
- 18 • Add and modify Personnel
- 19 • Role administration
- 20 • Menu maintenance

21 G. END USER TRAINING

22 CME recommends the "train the trainer" approach to COUNTY training.
23 This could include any number of people, however a minimum of 2 is
24 recommended. Should end user training be required by COUNTY, either online
25 or in person, this will constitute a chargeable expense at our per diem rate plus
26 reasonable travel expenses.

Browser (*) \ OS	Windows	IOS	Android
 Edge	42.0+	-	-
 Firefox	62+	62+	62+
 Chrome	69+	69+	69+
 Opera	55+	-	-
 Safari	-	11+	-

- Browsers with no HTML 5 implemented are not supported
- Browsers must have JavaScript support enabled
- Browsers in Beta stage are not supported
- All Discontinued browsers are not supported for example: IE & Netscape

XV. **AUDITS AND INSPECTIONS**

CONTRACTOR shall at any time during CONTRACTOR'S normal business hours, and upon prior written notice, as often as the COUNTY may deem necessary, make available to the COUNTY for examination all of its records and data with respect to the matters covered by this Agreement. CONTRACTOR shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such records and data necessary to ensure CONTRACTOR'S compliance with the terms of this Agreement. Any such examinations or audits shall be at the COUNTY'S expense, and at Contractor's facility.

If this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California

1 State Auditor for a period of three (3) years after final payment under contract
2 (Government Code Section 8546.7) at Contractor's facility.

3
4 XVI. **NOTICES:**

5 The persons and their addresses having authority to give and receive
6 notices under this Agreement include the following:

7 A. **AUTHORITY TO GIVE AND RECEIVE NOTICES**

8 COUNTY OF FRESNO	CONTRACTOR
9 IT Manager	Anthony Kessel, CEO
10 2200 Fresno Street	VertiQ Software LLC
11 Fresno, CA 93721	18625 Sutter Blvd. Suite 500
	12 Morgan Hill CA 95037-2684

13
14 All notices between the COUNTY and CONTRACTOR provided for or
15 permitted under this Agreement must be in writing and delivered either by
16 personal service, by first-class United States mail, by an overnight commercial
17 courier service, or by telephonic facsimile transmission. A notice delivered by
18 personal service is effective upon service to the recipient. A notice delivered by
19 first-class United States mail is effective three COUNTY business days after
20 deposit in the United States mail, postage prepaid, addressed to the recipient. A
21 notice delivered by an overnight commercial courier service is effective one
22 COUNTY business day after deposit with the overnight commercial courier
23 service, delivery fees prepaid, with delivery instructions given for next day
24 delivery, addressed to the recipient. A notice delivered by telephonic facsimile is
25 effective when transmission to the recipient is completed (but, if such
26 transmission is completed outside of COUNTY business hours, then such
27 delivery shall be deemed to be effective at the next beginning of a COUNTY

1 business day), provided that the sender maintains a machine record of the
2 completed transmission. For all claims arising out of or related to this Agreement,
3 nothing in this section establishes, waives, or modifies any claims presentation
4 requirements or procedures provided by law, including but not limited to the
5 Government Claims Act (Division 3.6 of Title 1 of the Government Code,
6 beginning with section 810).

7 B. PRIMARY ESCALATION CONTACT INFORMATION

8 The persons and their contact information that the COUNTY or
9 CONTRACTOR can use to escalate problems or situations are as follows:

10
11 (1)

12 COUNTY OF FRESNO

CONTRACTOR

13 Contact #1

Contact #1

14 Information Technology Manager

Anthony Kessel,

Technical Support Manager

15 Office Phone: (559) 600-8900

vqtechsupport@vertiq.com

16 Email: tac@fresnosheriff.org

Office Phone: (408) 778,0608

17
18 (2)

19 COUNTY OF FRESNO

CONTRACTOR

20 Contact #2

Contact #2

21 Patrick Stevens,

Fabian Valli

22 Senior IT Analyst

Technical Support


23 Email:

Email:

24 patrick.stevens@fresnosheriff.org

vqtechsupport@vertiq.com

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

3 **CONTRACTOR**
4 

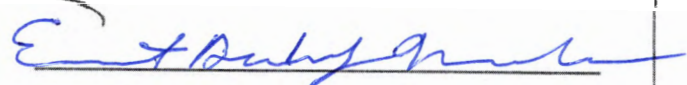
5 _____
(Authorized Signature)

8 Anthony Kessel, CEO
9 VertiQ Software Corporation
10 _____

11 Print Name & Title

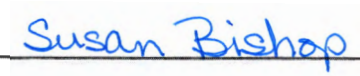
12 PO Box 787
13 Morgan Hill CA 95037-0787
14 _____

15 Mailing Address

COUNTY OF FRESNO
6 

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

17 **ATTEST:**
18 Bernice E. Seidel
19 Clerk of the Board of Supervisors
20 County of Fresno, State of California

23 By: 
24 _____
25 Deputy

26 For Accounting Use Only:
27 ORG No.: 31117000
28 Account: 7281/0001/10000

Exhibit A

VERTIQ CMI-V3 QUOTE FOR FRESNO COUNTY SHERIFF'S OFFICE - CORONER
CLOUD-HOSTED CASE MANAGEMENT DATABASE

Purpose – The below schedule reflects a proposed pricing schedule for the County's implementation of cloud-hosted services effective July 15, 2019. Should the County elect to implement cloud-hosted services at a later date, a revised pricing structure shall be appended to the Agreement with the authorization of the County CIO (Section VI-E).

This project would upgrade and migrate Fresno County Sheriff's Office - Coroner-Medical-Examiner data to the VertiQ CTI-V3 cloud-hosted server environment. This version is a completely new architecture for a mobile-based application.

Terms – Customer and VertiQ would agree to mutually determined terms in chronological alignment with the existing Agreement, in an appended pricing structure document.

All Hosted fees will be subject to a 3% COL increase annually. Should COUNTY require additional users, fees will be increased accordingly or if projected data storage limits are exceeded, additional storage costs will incur.

Exhibit A

CLOUD-HOSTED CASE MANAGEMENT DATABASE

Year 1	Annual Hosted Fees for 15 users (prorated): Effective 07/15/2019	\$26,700
Year 2	Annual Hosted fees for 15 users: Effective 7/1/2020	\$27,500
Year 3	Annual Hosted fees for 15 users: Effective 7/1/2021	\$28,325
Year 4	Annual Hosted fees for 15 users: Effective 7/1/2022	\$29,175
Year 5	Annual Hosted fees for 15 users: Effective 7/1/2023	\$30,050
TOTAL		\$141,750

“User(s)” is defined as Customer employees, representatives, consultants, contractors, or agents who are authorized to use the Software and have been supplied user identifications and passwords by Customer (or by Vendor at Customer’s request), each of which must be individual and not shared.

Data Storage Fees – The CME-V3 Annual Fee provides for unlimited storage of the database. Documents and images, however, will have a separate storage fee for the term of the Agreement. This fee is subject to change depending on the amount of legacy and projected storage that is anticipated at the time of Agreement. COUNTY will be notified if COUNTY is getting close to its limit. We will work with COUNTY to determine COUNTY’s expected storage over the remainder of the year, and bill accordingly at \$.18/Gb/Mo.

Exhibit A

	Annual Fees
Legacy Documents/Images Storage Fees estimated __ Gb @ \$.18/Gb/Mo	\$ TBD
Projected 1st annual growth increase estimated __ Gb @ 18/Gb/Mo	<u>\$ TBD</u>
1st year Total <u>Annual</u> Document/Image Storage Fees	\$ TBD

The new mobile CME-V3 system includes fully integrated modules for Case Management, Accounting, Asset Management, Reports, Banking functions, and File Management. Upgrades to the system are included at no additional cost.

Installation: Installation by VertiQ cannot begin until COUNTY's Sheriff Office IT Unit has a server in place with all of the minimal recommendations, as supplied in our 'Hardware/Software Requirements' document. VertiQ will not install unless COUNTY's server is properly prepared. VertiQ can assist in helping COUNTY set up the server for an additional charge. This includes and is limited to IIS configuration, SQL VertiQ DB restores, and updates.

VertiQ is able to perform the installation more effectively while having VPN full access to the test server and database. If VertiQ is not provided with full VPN access we have found that there is additional time needed to perform the install. This will constitute a chargeable expense. There should be both a testing and production environment set up.

Exhibit A

Additional Agreement Terms specific to Cloud-Hosted applications

Vendor is in the business of providing case management software for Coroner-Medical-Examiners, fiduciaries, and administrators. The parties desire that Vendor make such software available to Customer under the terms and conditions of this Agreement, and Customer's access to and use of the software shall conform to these terms and conditions.

In consideration of the mutual promises and covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Definitions**

The following terms shall have the following meaning:

"CME-V3 Hosted" means the case management software for Coroner-Medical-Examiners, fiduciaries, administrators. offered via Software as a Service (SaaS), the "Service" provided under the terms of this Agreement, designed as an alternative to a customized CME-V3 residing locally on a customer's server.

"Content" means the audio and visual information, documents, software, products, and services contained or made available to Customer in the course of using the Service.

"Customer Data" means any data, information, or material provided or submitted by Customer to the Service in the course of using the Service.

"Initial Term" means the initial period during which Customer is obligated to pay for the Service as defined above attached to this Agreement.

"Intellectual Property Rights" means any unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of

Exhibit A

1 protection of a similar nature anywhere in the world.

2 **“License Administrator(s)”** means those Users designated by Customer who are
3 authorized to purchase licenses and to create User accounts and otherwise
4 administer Customer’s use of the Service.

5 **“License Term(s)”** means the period(s) during which a specified number of Users
6 are licensed to use the Service pursuant to this Agreement.

7 **“Vendor Technology”** means all of Vendor’s proprietary technology (including
8 software, hardware, products, processes, algorithms, user interfaces, know-how,
9 techniques, designs, and other tangible or intangible technical material or
10 information) made available to Customer by Vendor in providing the Service.

11 **“Service(s)”** means access under the terms of this Agreement to Vendor’s case
12 management software, which is developed, operated, and maintained by Vendor,
13 accessible via www.vertiq.com or another designated website or IP address, or
14 ancillary online or offline products and services provided to Customer by Vendor,
15 to which Customer is being granted access under this Agreement, including the
16 Vendor Technology and the Content.

17 **“User(s)”** means Customer employees, representatives, consultants, contractors,
18 or agents who are authorized to use the Service and have been supplied user
19 identifications and passwords by Customer (or by Vendor at Customer’s request).

20 21 **3. Customer Responsibilities**

22 Customer is responsible for all activity occurring under Customer’s User
23 accounts, including activity initiated by third parties, whether such parties are
24 known or unknown to Customer, with the *sole exception* of activities which are
25 specifically initiated by Vendor or caused by the negligence of Vendor and shall
26 abide by all applicable local, state, and federal laws and regulations in connection
27 with Customer’s use of the Service, including those related to data privacy, and

Exhibit A

1 the transmission of technical or personal data, except to the extent such activity is
2 outside of Customer's reasonable control. Customer shall: (i) notify Vendor
3 immediately of any unauthorized use of any password or account or any other
4 known or suspected breach of security; (ii) report to Vendor immediately and use
5 reasonable efforts to stop immediately any copying or distribution of Content that
6 is known or suspected by Customer or Customer Users; and (iii) not impersonate
7 another Vendor user or provide false identity information to gain access to or use
8 the Service.

9 **4. Account Information and Data**

10 Vendor does not own any Customer Data. Customer, not Vendor, shall have
11 sole responsibility for the accuracy, quality, integrity, legality, reliability,
12 appropriateness, and intellectual property ownership or right to use of all Customer
13 Data, and Vendor shall not be responsible or liable for the deletion, correction,
14 destruction, damage, loss, or failure to store any Customer Data, except to the
15 extent that any such deletion, correction, destruction, damage, loss, or failure to
16 store such Customer Data is the result of Vendor's negligence in performing
17 services pertaining to Customer Data pursuant to this Agreement. In the event this
18 Agreement is terminated, Vendor will make available to Customer a quality,
19 industry standard, and useable file of the Customer Data within 10 days of
20 termination. Upon termination for cause, Customer's right to the Services shall
21 cease, but Vendor will make available to Customer a file of the Customer Data
22 within 10 days of termination.

23 **5. Intellectual Property Ownership**

24 Vendor (and its licensors, where applicable) shall exclusively own all right, title,
25 and interest, including all related Intellectual Property Rights, in and to the Vendor
26 Technology, the Content, other than Customer's data, and the Service and any
27 suggestions, ideas, enhancement requests, feedback, recommendations, or other

Exhibit A

1 information provided by Customer or any other party relating to the Service. This
2 Agreement is not a sale and does not convey to Customer any rights of ownership
3 in or related to the Service, the Vendor Technology, or the Intellectual Property
4 Rights owned by Vendor. Vendor's name, Vendor's logo, and the product names
5 associated with the Service are trademarks of Vendor or third parties, and no right
6 or license is granted to use them as outlined in the VERTIQ SOFTWARE
7 CORPORATION, END-USER LICENSE AGREEMENT.

8 **6. Charges and Payment of Fees**

9 Customer shall pay all fees or charges to Customer's account in accordance
10 with the terms and conditions set forth herein. The initial charges will be equal to
11 the current number of total User licenses requested times the User license fee
12 currently in effect. Payments must be made annually in advance unless otherwise
13 mutually agreed upon. Customer is responsible for paying for all User licenses
14 ordered for the year, whether or not such User licenses are actively used. An
15 authorized License Administrator may add licenses by initiating an amendment to
16 this Agreement. Added licenses will be subject to the following: (i) added licenses
17 will be coterminous with the preexisting License Term (either Initial Term or
18 renewal term); (ii) the license fee for the added licenses will be the then current,
19 generally applicable license fee; and licenses added in the middle of a billing month
20 will be charged on a pro-rated basis for that billing month. Vendor reserves the
21 right to modify its fees and charges and to introduce new charges at any time.

22 **7. Excess Data Storage Fees**

23 Customer will be charged the then-current storage fees for additional storage
24 as outlined above. Vendor will use reasonable efforts to notify Customer when the
25 average storage used reaches approximately 90 percent of the maximum
26 designated; however, any failure by Vendor to so notify Customer shall not affect
27 Customer's responsibility for such additional storage charges. Said notice shall be
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Exhibit A

1 in addition to a monthly usage report to Customer, which shall provide Customer
2 with its current storage usage and the remaining storage space remaining. Vendor
3 reserves the right to establish or modify its general practices and limits relating to
4 the storage of Customer Data. Vendor shall notify Customer of any changes,
5 limitations, or additions to its general practices and limits relating to the storage of
6 Customer's Data 30 days prior to the effective date of said changes.

7 **8. Billing and Renewal**

8 Payment for each year of the initial term is as set forth in this document.
9 Vendor will automatically issue an invoice to Customer each year on the
10 subsequent anniversary or as otherwise mutually agreed upon. Renewal fees will
11 be equal to the then current number of total User licenses times the current license
12 fees at the time of renewal. Other services will be charged on an as-quoted basis.
13 Vendor's fees are exclusive of all taxes, levies, or duties imposed by taxing
14 authorities, and Customer shall be responsible for payment of all such taxes,
15 levies, or duties, excluding only U.S. (federal or state) taxes based solely on
16 Vendor's income. The parties understand and agree that the transaction resulting
17 from this Agreement shall not be subject to sales taxes in California, as further
18 provided in Section 6010.9, 6011, and 6012 of the California Revenue and
19 Taxation Code. If Customer believes its bill is incorrect, Customer must contact
20 Vendor in writing within 60 days of the invoice date of the invoice containing the
21 amount in question to be eligible to receive an adjustment or credit.

22 **Nonpayment and Suspension**

23 In addition to any other rights granted to Vendor herein, Vendor reserves the
24 right to suspend or terminate this Agreement and Customer's access to the Service
25 if Customer's account becomes delinquent by more than 60 days. Delinquent
26 invoices and accounts are subject to interest of 1.0 percent per month on any
27 outstanding balance, or the maximum permitted by law, whichever is less, plus all

Exhibit A

1 expenses of collection. Customer will continue to be charged for User fees during
2 any period of suspension. If Customer or Vendor initiates termination of this
3 Agreement, Customer will be obligated to pay the balance due on Customer's
4 account computed in accordance with Section 8 above. Customer agrees that
5 Vendor may bill Customer for such unpaid fees.

6 Vendor reserves the right to impose a reconnection fee in the event Customer
7 is suspended and thereafter requests access to the Service. Customer agrees and
8 acknowledges that in the event of suspension or termination, Vendor will provide
9 Customer with a file of the Customer Data upon Customer's request or before 10
10 days of account delinquency, as Vendor has no obligation to retain Customer Data
11 after this time period, and Customer hereby specifically acknowledges that such
12 Customer Data may be irretrievably deleted by Vendor if Customer's account is
13 120 days or more past due.

14 **10. Termination upon Expiration/Reduction in Number of Licenses**

15 This Agreement commences on the Effective Date. The Term is described in
16 Section IV of the Agreement. Either party may terminate this Agreement or reduce
17 the number of licenses, effective only upon the expiration of the then current
18 License Term, by notifying the other party in writing at least thirty (30) days prior
19 to the expiration of the term. Customer shall be entitled to a pro-rata refund of all
20 payments tendered for any period in excess of the remaining year in which
21 termination notice was served. In the case of free trials, notifications provided
22 through the Service indicating the remaining number of days in the free trial shall
23 constitute notice of termination. In the event this Agreement is terminated, Vendor
24 will make available to Customer a quality, industry standard and useable file of the
25 Customer Data within 10 days of termination if Customer so requests at the time
26 of termination. Customer agrees and acknowledges that Vendor has no obligation
27 to retain the Customer Data, and may delete such Customer Data, more than 120

Exhibit A

1 days after termination.

2 **11. Termination for Cause**

3 Any breach of Customer's payment obligations or unauthorized use of the
4 Vendor Technology or Service will be deemed a material breach of this Agreement.
5 Vendor, in its sole discretion, may terminate Customer's password, account, or
6 use of the Service if Customer breaches or otherwise fails to comply with this
7 Agreement, provided that Customer fails to cure or otherwise resolve a verified
8 breach within 60 days of receipt of Vendor's notice. Customer agrees and
9 acknowledges that Vendor has no obligation to retain the Customer Data, and may
10 delete such Customer Data, if Customer has not cured within 120 days of notice
11 of such breach; however, in this instance, Vendor agrees to provide Customer with
12 a file of the Customer Data upon Customer's request or within 10 days of such
13 termination.

Exhibit B

SELF-DEALING TRANSACTION DISCLOSURE FORM

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

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

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

INSTRUCTIONS

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

Exhibit B

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(1) Company Board Member Information:

	Date:	

(2) Company/Agency Name and Address:

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(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):

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(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):

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(5) Authorized Signature

Signature		Date:	
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