

LOS ANGELES FIRE DEPARTMENT



JAIME E. MOORE
FIRE CHIEF

February 13, 2026

BOARD OF FIRE COMMISSIONERS
FILE NO. 26-013

TO: Board of Fire Commissioners

FROM:  Jaime E. Moore, Fire Chief

SUBJECT: FOURTH AMENDED AND RESTATED AGREEMENT NO. C-118005 WITH DIGITECH COMPUTER, LLC (AS SUCCESSOR TO ADVANCED DATA PROCESSING, INC.) FOR EMERGENCY MEDICAL SERVICES SYSTEM (EMSS)

FINAL ACTION: Approved Approved w/Corrections Withdrawn
 Denied Received & Filed Other

SUMMARY

On October 22, 2010, the Los Angeles Fire Department (LAFD) entered into Agreement No. C-118005 (Agreement) with Digitech Computer LLC (Digitech), as successor to Advanced Data Processing, Inc., for an Emergency Medical Services System (EMSS). Digitech's EMSS, a computerized emergency medical services billing and collection system, streamlines the billing and accounts receivable process and provides for the tracking and reporting of each phase of the ambulance billing and collections process.

The Agreement provided for a six-year term from October 22, 2010 through October 21, 2016 with up to six additional three-year renewal options. This report represents the Fourth Amended and Restated Agreement No. 118005, exercising the fourth three-year option to extend the term to October 21, 2028.

RECOMMENDATIONS

That the Board:

1. Approve and authorize the Fire Chief to execute the Fourth Amended and Restated Agreement No. C-118005 to extend the term for an additional three years through October 22, 2028 for EMSS billing and collections services.
2. Transmit the Agreement to the Office of the Mayor for review and approval, in accordance with Executive Directive No. 3.

DISCUSSION

On October 24, 2016, the LAFD entered into a Restatement and First Amendment to Agreement No. C-118005, exercising the first three-year renewal option, and extended the contract term through October 21, 2019.

On June 12, 2020, the LAFD entered into a Restatement and Second Amendment to Agreement No. C-118005, exercising the second three-year renewal option, and extended the contract term through October 21, 2022.

On November 9, 2022, the LAFD entered into a Restatement and Third Amendment to Agreement No. C-118005, exercising the third three-year renewal option, and extended the contract term through October 21, 2025.

As a result of the EMSS, the LAFD has seen improved efficiencies in the Department's ambulance billing and collections process, improved tracking and statistical reporting, and increased revenues. The average annual Emergency Medical Services revenue for the past five (5) fiscal years from FY 2020-21 through FY 2024-25 is \$134 million.

The LAFD proposes to exercise the fourth three-year renewal option to extend the term of Agreement No. C-118005 through October 21, 2028. Digitech's compensation is based on a fee of 5.1% of net revenue collections. The net Emergency Medical Services collection revenue in FY 2025-26 is estimated at \$175 million.

The Fourth Amended and Restated Agreement has been reviewed and approved by the City Attorney as to legal form. Pursuant to Los Angeles City Charter Section 373, approval by the City Council is required.

FISCAL IMPACT

Funding for the net collections fee in the amount of \$4 million for the Fourth Amended and Restated Agreement No. C-118005 for EMSS billing and collections services is included in the FY 2025-26 Contractual Services Account 3040. This amount is subject to increase based on actual collections.

Board Report prepared by Alexis A. Cameron, Sr. Management Analyst II,
Administrative Services Bureau.

Attachment

**FOURTH AMENDED AND RESTATED AGREEMENT NUMBER C-118005
BETWEEN
THE CITY OF LOS ANGELES AND
DIGITECH COMPUTER LLC
FOR EMERGENCY MEDICAL SERVICES SYSTEM (EMSS)**

THIS FOURTH AMENDED AND RESTATED AGREEMENT ("Agreement") is made and entered into by and between the City of Los Angeles, a municipal corporation ("CITY"), acting by and through the Los Angeles Fire Department ("LAFD"), and Digitech Computer LLC, a Delaware company ("CONTRACTOR") (collectively, the "Parties," or individually, a "Party"), with reference to the following:

WHEREAS, automating the emergency medical services billing and collections function and providing for certified medical billing specialists will generate significantly more revenue for the CITY than the current system and facilitate compliance with Federal and State privacy laws; and

WHEREAS, the CITY Council directed the LAFD to issue a Request for Proposals ("RFP") to automate and outsource emergency medical service billing and collections services (C.F. 03-0814); and

WHEREAS, on August 22, 2007, the CITY issued an RFP in accordance with Section 372 of the City Charter, seeking qualified proposals and found CONTRACTOR's response to satisfy the level of qualifications and experience necessary to provide the type and level of service required by the CITY; and

WHEREAS, the CITY performed its Charter Section 1022 review and determined that the information technology portion of the work is proprietary to the CONTRACTOR and that the software installation, maintenance and service must be performed by CONTRACTOR's staff; and

WHEREAS, the CITY currently performs emergency medical services billing and collections; however, the work can be performed more economically by the CONTRACTOR because its services are automated to the extent possible and performed by certified specialists; and

WHEREAS, the work to be performed is expert and technical in nature; and

WHEREAS, the Parties wished to enter into an Agreement pursuant to which the CONTRACTOR will perform emergency medical services billing and collections for the LAFD; and

WHEREAS, on August 3, 2010, the City Council (C.F.10-1078) authorized the Fire Chief to execute Agreement C-118005 with Advanced Data Processing, Inc. (dba ADPI-Intermedix) ("ADPI") for a term commencing on October 22, 2010 through October 21, 2016, with up to six (6) additional three-year extensions ("Original Agreement"); and

WHEREAS, on October 24, 2016, the CITY entered into a Restatement and First Amendment to Agreement No. C-118005 ("Restatement and First Amendment") with ADPI (a subsidiary of Intermedix), to execute the first renewal option and extend the term to October 21, 2019, increase the total maximum compensation amount to an estimated \$31.46 million, restate the continuing terms, and incorporate necessary amendments; and

WHEREAS, on or about May 2018, ADPI was acquired by R1 RCM, Inc. (“R1”), along with all its contractual obligations, and became a wholly-owned subsidiary of R1. By operation of acquisition, ADPI assigned the Restatement and First Amendment to R1, and the CITY agreed to the assignment of that agreement; and

WHEREAS, on June 12, 2020, the CITY entered into a Restatement and Second Amendment to Agreement C-118005 (“Restatement and Second Amendment”) with ADPI (a subsidiary of R1), to exercise the second renewal option, and extend the term to October 21, 2022; and

WHEREAS, on or about October 2020, ADPI (a subsidiary of R1) was acquired by CONTRACTOR, along with all its contractual obligations, and became a wholly-owned subsidiary of CONTRACTOR. By operation of acquisition, ADPI assigned the Restatement and Second Amendment to CONTRACTOR, and the CITY agreed to the assignment of that agreement; and

WHEREAS, on November 9, 2022, the CITY entered into a Restatement and Third Amendment to Agreement C-118005 with ADPI (a subsidiary of CONTRACTOR), to exercise the third renewal option, and extend the term to October 21, 2025; and

WHEREAS, the Parties now wish to: (a) exercise the fourth option to extend the term of the Restatement and Third Amendment to Agreement C-118005 for an additional three years, to expire on October 21, 2028, (b) replace Exhibit A – Standard Provisions for City Contracts (Rev. 10/21) [v.4] with Exhibit A – Standard Provisions for City Contracts (Rev. 1/25 [v.2]), and (c) make certain other changes deemed necessary by the Parties.

NOW THEREFORE, in consideration of the above promises, representations, covenants and agreements provided below, the Parties agree as follows:

1.0 GLOSSARY OF TERMS

CONTRACTOR's Billing System means the Software and all services required to perform this Agreement.

Documentation means:

- a. Evidential or reference documents: documents provided or collected together as evidence or as reference material.
- b. Process of providing written information: the process of providing written details or information about something.
- c. Computer software information: the instructions, tutorials, and reference information provided to explain how to install and use software or a computer system.

EMS means emergency medical service.

FMIS means Financial Management Information System. The CITY's current Electronic Comprehensive Financial Management System.

FMS means The CITY's future Electronic Comprehensive Financial Management System, which the CITY expects to implement on July 1, 2011.

Fee Ordinances means Los Angeles Administrative Code Sections 5.181 and 22.210.2, as amended from time to time and any such other ordinances relating to fees that may be adopted during the term of the Agreement.

HCPCS means Healthcare Common Procedure Coding System, which are the numeric and alpha-numeric code sets to identify medical services, procedures and equipment used by Medicare and monitored by the Centers for Medicare and Medicaid Services ("CMS"). They are based on the Current Procedural Technology codes ("CPT Codes") maintained by the American Medical Association, and are assigned to every task and service a medical practitioner may provide to a Medicare patient including medical, surgical, and diagnostic services.

Litigation Account means any account that has been identified as being involved in litigation.

Project Implementation means the presentation of a fully operational, fully hosted EMS billing system for the LAFD using CONTRACTOR's Software.

Project Plan means the document which identifies objectives and tasks to be completed during the transition from the LAFD's current EMS billing system to the CONTRACTOR's Billing System. The Project Plan shall provide a detailed description of key deliverables with timing projections, including a detailed task breakdown. The task breakdown shall include the following details for each identified task: assumptions, prerequisites, responsibilities for each of the Parties, key staff involvement for each of the Parties, start/stop dates, milestones, and estimated work hours.

Procedures Manual means a document that defines the operations and procedures guidelines established through collaborative efforts of the CONTRACTOR and the LAFD to effectively manage the terms and conditions of this Agreement.

Software means the Intermedix billing IMX software or billing system, or other ambulance billing software of equal or better functionality that is acceptable to the LAFD.

Users shall mean: (i) any employees of CITY and (ii) any medical professional who is authorized to perform medical services for CITY in the area in which CITY operates its emergency medical services as of the Agreement Amendment Effective Date.

2.0 PARTIES TO THE AGREEMENT AND REPRESENTATIVES

2.1 Parties to the Agreement

The Parties to this Agreement are:

- a. The CITY, by and through the LAFD, having its principal office at 200 North Main Street, 18th Floor, Los Angeles, California 90012.
- b. CONTRACTOR, having its principal address at 480 Bedford Road, Suite C-202, Chappaqua, New York 10514.

2.2 Representatives of the Parties

The representatives of the Parties who are authorized to administer this Agreement and to whom formal notices, demands and communications will be given are as follows:

- a. The CITY's representative is, unless otherwise stated in the Agreement:

Fire Chief
Los Angeles Fire Department
200 North Main Street, Room 1800
Los Angeles, California 90012
Tel: (213) 978-3838
Fax: (213) 978-3814

And:

Fire Administrator
Los Angeles Fire Department
Bureau of Administrative Services
200 North Main Street, Room 1630
Los Angeles, California 90012
Tel: (213) 978-3731
Fax: (213) 978-3414

- b. The CONTRACTOR's representative is, unless otherwise stated in the Agreement:

Walter Pickett II, Chief Executive Officer
Digitech Computer LLC
480 Bedford Road, Suite C-202
Chappaqua, New York 10514
Tel: (914) 741-1919
Fax: (914) 741-2818

With a copy to:

Michael Brook, Senior Vice President
Digitech Computer LLC
480 Bedford Road, Suite C-202
Chappaqua, New York 10514
Tel: (510) 904-5713

And:

2.3 Notices

- a. Formal notices, demands and communications required hereunder by either Party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing; and
- b. If the name or address of the person designated to receive the notices, demands or communications is changed, written notice shall be provided as described in this Agreement, within five (5) business days of said change. As used in this section, "business days" shall refer to the days the CITY is open to the public for business; and
- c. Informal notifications and general business related communications shall be made via email or by telephone as provided in the Procedures Manual.

3.0 TERM OF AGREEMENT

3.1 Term

The term of this Agreement shall commence on October 22, 2010, and shall end on October 21, 2028, unless otherwise terminated earlier as provided herein.

3.2 Amendments

The Original Agreement provided for six (6) additional options to extend the term of the Agreement, exercised in three (3) year increments, utilizing the amendment process described in Section PSC-5 of the Standard Provisions for City Contracts (Rev. 1/25 [v.2]), attached hereto and incorporated herein as Exhibit A. Any amendment to extend the term of this Agreement are contingent on the availability of funds and the CONTRACTOR having provided satisfactory services under this Agreement.

3.3 Ratification of Agreement

Due to the need for CONTRACTOR's services to be provided continuously on an ongoing basis, CONTRACTOR may have provided services prior to the execution of this Agreement. To the extent that the CONTRACTOR's services were performed in accordance with the terms and conditions of this Agreement, those services are hereby ratified.

4.0 PROCEDURES MANUAL

The Parties shall develop and maintain a Procedures Manual, which may be amended by the Parties as needed, governing the manner in which the Parties will conduct daily business. Either Party's failure to comply with practices established in such Manual may be deemed to be a material breach of the Agreement. The cure period shall be thirty (30) days but otherwise subject to the provisions in Section 15.2 Termination for Breach of

Agreement of this Agreement. The Parties agree to review and consider updates to the procedure manual on a quarterly basis.

5.0 WEB HOSTING LICENSE

5.1 License

CONTRACTOR grants to CITY a limited, non-exclusive and non-transferable license: (i) to access and use the CONTRACTOR's proprietary software ("Software") in executable code format via Internet connection to CONTRACTOR's hosting facility solely in support of the billing and collections with respect to the CITY's EMS services; and (ii) to use any associated end-user Documentation provided by CONTRACTOR ("Documentation") in support of CITY's authorized use of the Software. Except as expressly permitted herein, no express or implied license is granted to CITY to use, receive, reproduce, copy, market, sell, distribute, license, sublicense, lease, timeshare, or rent the Software or any component thereof. No modification of, or preparation of derivative works based on the Software or Documentation is permitted. CITY shall not disassemble, decompile, decrypt or reverse engineer the Software or in any way attempt to discover or reproduce source code for the Software, or any portion thereof. CITY shall not develop or license any third party programs, applications, tools or other products which interface or interact with the Software without the prior written consent of CONTRACTOR. CITY agrees not to remove the copyright, trade secret or other proprietary protection legends or notices which appear on or in the Software. The Software may incorporate software under license from a third party. If the third party requires CITY's notification of such use through an End User License Agreement ("EULA"), CONTRACTOR will provide such notification to CITY. In order to use the Software, CITY agrees to be bound by all EULA(s) provided at the time of delivery whether by hardcopy or displayed upon installation or use of the Software. CITY's use of the Software subsequent to such notice(s) shall constitute CITY's acceptance of the EULA(s).

5.2 Service disruption caused by CITY

CONTRACTOR shall not be liable for service outages caused by direct CITY actions.

5.3. Intellectual Property

CITY agrees that the equipment, computer hardware and software, billing and collections processing, the services, Billing System and other related systems and equipment are the property and trade secrets of CONTRACTOR, and that CITY will not release any information regarding such Confidential Information, as such term is defined in Section 13.1 (a) Confidentiality, and/or trade secrets of CONTRACTOR to any third party without the prior written consent of CONTRACTOR. CITY further agrees that, in connection with the use of certain data entry devices, CITY may gain access to the intellectual property of third parties. CITY understands and agrees that it may be required to enter into agreements with respect to such intellectual property in order to use such equipment. CITY agrees to enter into such arrangements at CONTRACTOR's request.

6.0 SERVICES TO BE PROVIDED

Upon execution of this Agreement the CONTRACTOR shall provide the goods and services as required under this Agreement.

6.1 Transition

- a. CONTRACTOR and the LAFD agree that they shall fully cooperate with each other in transitioning EMS billing services from the LAFD to CONTRACTOR. Subject to CONTRACTOR's approval, the LAFD may transfer uncollected patient accounts, created prior to the commencement of this Agreement, to CONTRACTOR. CONTRACTOR agrees to create accounts for patients, treated before the effective date of this Agreement, for whom no accounts have been created. CONTRACTOR agrees to create all accounts for patients treated on the effective date of this Agreement and thereafter. CONTRACTOR agrees to accept the LAFD's patient and other data relating to transition accounts in any format. All accounts transitioned or created subject to this provision shall be processed consistently with the terms of this Agreement;
- b. The LAFD will provide CONTRACTOR with information relating to the transitioned accounts adequately to enable CONTRACTOR's proper coding, billing, or collection of the transitioned accounts in accordance with CONTRACTOR's obligations under this Agreement. To the extent such information is inadequate; CONTRACTOR agrees to exert commercially reasonable efforts to perform the services with respect to the transitioned accounts.

6.2 Project Plan

- a. Within the first fourteen (14) days of this Agreement, CONTRACTOR shall conduct a complete review of the LAFD's billing practices, which shall consist of on-site visits and data evaluation to aid in development of the Project Plan;
- b. Within fifteen (15) days of the effective date of the Agreement, CONTRACTOR shall conduct a planning meeting with the LAFD's Project Manager regarding elements of the Project Plan; and
- c. Within thirty (30) days of the effective date of the Agreement, CONTRACTOR, working with the LAFD'S Project Manager, shall deliver a draft Project Plan to the LAFD; and
- d. Within fifteen (15) days of receipt of the draft Project Plan, the LAFD shall provide comments and instructions to CONTRACTOR; and
- e. CONTRACTOR shall provide a Final Project Plan within fifteen (15) days of receiving the LAFD's comments.

6.3 Support

a. CONTRACTOR's Billing System for the LAFD

1. CONTRACTOR shall provide to the LAFD on-going support, maintenance, and upgrades of the CONTRACTOR's Billing System and hardware, including Documentation and/or training when substantial changes occur in CONTRACTOR's Billing System; and
2. Issues resulting in a work stoppage or that are otherwise deemed critical will receive an immediate response and resolution. Non-critical issues will be prioritized and resolved according to the priority level and time of submission. After hours, CONTRACTOR's holidays, and weekend support shall be provided; and
3. CONTRACTOR shall provide a full-time individual for on-site support, at the LAFD's designated location; and
4. CONTRACTOR shall meet, monthly or as necessary, with the LAFD at its offices or through technology aided meetings at the discretion of the LAFD.

b. Support for Patients

CONTRACTOR shall operate a call center providing email and telephone support between 7:00 a.m. and 5:00 p.m. Pacific Standard Time, Monday through Friday (CONTRACTOR's holidays excluded). CONTRACTOR will provide voicemail services after the close of business and respond to inquiries within one (1) business day.

6.4 Integration

- a. At its expense, CONTRACTOR shall integrate its Billing System with applicable CITY systems in a manner that provides regular information updates, within a reasonable period of time as agreed by the Parties. The CITY shall provide its required specifications governing all applicable integrations in the Procedures Manual. In the event that the CITY implements new systems, the CONTRACTOR agrees to work with the CITY to integrate its Billing System with the CITY's new system(s) within a reasonable period of time as agreed by the Parties; and
- b. At its expense, CONTRACTOR shall integrate its Software with applicable CITY systems in a manner that provides regular information updates, within a reasonable period of time as agreed by the Parties. The CITY shall provide its required specifications governing all applicable Software integrations in the Procedures Manual. In the event that the CITY implements new systems, the CONTRACTOR agrees to work with the CITY to integrate its Software with the CITY's new system(s) within a reasonable period of time as agreed by the Parties; and

- c. At its expense, CONTRACTOR shall integrate its Billing System with other relational database systems the CITY requests, assuming the requirements do not place undue burden on the CONTRACTOR. The Parties shall negotiate cost sharing to finance this task, if the CONTRACTOR provides evidence that CITY requirements create an undue burden; and
- d. Integration shall be achieved when all CITY systems are fully compatible with CONTRACTOR's Billing System, all necessary data transmission pathways are fully operational, and when all data transmissions conform with the CITY's security standards. CONTRACTOR shall acquire any reasonable software licenses required for access to or integration with any CITY systems; and
- e. CONTRACTOR understands that in order to perform the work required under this Agreement, CONTRACTOR must work cooperatively with ImageTrend, Inc., the CITY's field data capture and Protected Health Information ("PHI") transmission contractor. CONTRACTOR agrees to work cooperatively with ImageTrend, Inc. and all other CITY contractors in the performance of the Agreement.

6.5 Eligibility/Data Capture

- a. CONTRACTOR shall use reasonable efforts to obtain missing, and correct erroneous patient demographic and insurance information provided by the LAFD; and
- b. CONTRACTOR shall maintain a complete record of patient account activity, including all communications; and
- c. CONTRACTOR shall establish arrangements with hospitals or hospital associations to obtain patient demographic and insurance eligibility information where possible. If hospitals refuse to share information, CONTRACTOR shall notify the LAFD.

6.6 Billing and Collection of Payments

- a. CONTRACTOR shall process all patient accounts using the Software, except as otherwise agreed in writing by the LAFD. The Software shall generate electronic claims in the format required by major payers, and shall be capable of being updated regularly to facilitate capture of the most current HCPCS; and
- b. CONTRACTOR shall conduct all business in the most effective manner possible, consistent with industry established best practices and the Procedures Manual; and
- c. Before pursuing payment directly from patients, CONTRACTOR shall attempt to identify and qualify the patient for available insurance opportunities; and

- d. CONTRACTOR shall turnover to the LAFD any payment received after the account has been returned to the LAFD. CONTRACTOR is not entitled to compensation for an account after it has been returned to the LAFD; and
- e. CONTRACTOR shall have view access only to the designated EMS Lockbox account within the CITY's authorized banking system;
- f. CONTRACTOR shall establish and maintain fully auditable billing, collections and accounts receivable systems in accordance with Generally Accepted Accounting Principles and Governmental Accounting Standards Board guidelines. CONTRACTOR shall maintain appropriate accounting procedures for reconciling all deposits, receivables, billings, patient accounts, adjustments, and refunds; and
- g. CONTRACTOR shall collect patient signatures and create a master lifetime signatures file. To the extent the LAFD obtains signatures of patients or their representatives, it shall be in accordance with the requirements established by law, commercial insurers, and the LAFD policies. In the event that the LAFD fails to obtain proper signatures or under circumstances in which the patient refused or was unable to sign, CONTRACTOR agrees to seek signatures from patient. If the LAFD and CONTRACTOR fail to obtain a patient signature, CONTRACTOR agrees to continue to bill patient only in a manner that is consistent with the law; and
- h. CONTRACTOR shall return Litigation Accounts to the LAFD and cease billing efforts upon receiving notice of litigation. CONTRACTOR shall flag Litigation Accounts in its billing system. CONTRACTOR shall forward all payments for Litigation Accounts to the LAFD. CONTRACTOR shall not deposit such payments without express direction from the LAFD; and
- i. CONTRACTOR shall utilize an account identification system that cross references easily with the LAFD's assigned dispatch numbers; and
- j. CONTRACTOR shall have all form letters reviewed and approved by the LAFD. CONTRACTOR shall comply with CITY ordinances and State and Federal laws; and
- k. CONTRACTOR shall comply with the Payment Card Industry's requirements and the CITY Credit Card Acceptance Policy for safeguarding cardholder data and maintaining a secure cardholder environment; and
- l. CONTRACTOR's Billing System shall include working with patients to establish payment plans and establish a mechanism to track partial and periodic payments and address defaulted payment plans per CITY policy; and
- m. CONTRACTOR shall refer uncollectible accounts to the LAFD's contracted collection agencies (primary and secondary) and shall work with the CITY's collection agencies on accounts referred to said agencies for continued collection activities and write off as defined by CITY Financial Policy,

Ordinance and Administrative Code, and as outlined in the Procedures Manual; and

- n. CONTRACTOR shall bill all EMS patient accounts, unless exempt from collection under the law or instructed otherwise by the CITY; and
- o. CONTRACTOR shall not report delinquent accounts to credit reporting agencies; and
- p. CONTRACTOR shall provide the written Health Insurance Portability and Accountability Act ("HIPAA") Privacy Notice to patients in the initial bill, if requested by the LAFD. The additional cost of providing the HIPAA Privacy Notice is described in Exhibit B - Fee Schedule; and
- q. CONTRACTOR shall provide for bill payments including pass on services fees via mail, walk-ins at the LAFD, telephone, secure online and any other payment options as required by the CITY; and
- r. CONTRACTOR shall only make adjustments to patient accounts in accordance with Exhibit B - Fee Schedule of this Agreement.

6.7 Training

- a. CONTRACTOR shall monitor all developments in the law and industry best practices relating to health care insurance and billing. CONTRACTOR shall inform the LAFD of relevant developments and make timely recommendations regarding compliance, if necessary; and
- b. CONTRACTOR shall assist the LAFD in developing plan(s) to guide the LAFD in its efforts to comply with the law, as amended or changed from time to time, related to the services provided under this Agreement; and
- c. CONTRACTOR shall train its employees and designated LAFD employees with respect to the following subjects:
 - 1. The legal requirements and CONTRACTOR's business practices associated with EMS billing, including but not limited to, the requirements of Medicare, Medicaid, and commercial insurers relating to documentation, medical necessity, assignment of diagnostic and procedural codes, and preparation and submission of claims;
 - 2. The consequences of failing to comply with applicable laws, including the penalties for fraud, abuse, and HIPAA violations.
- d. CONTRACTOR shall furnish a review course on an annual basis to all employees performing medical necessity determination and medical diagnostic coding services under this Agreement. The annual course must include a review and update of the CONTRACTOR's Compliance Program and

Agreement Services but shall not serve as a substitute course for the complete training requirement, referred to above.

6.8 Data Management, Security and Privacy

a. Data Ownership and Use

The City is the sole and exclusive owner of all data and information that is managed or contained within the system and/or provided to the Contractor by or on behalf of City pursuant to this Agreement and any and all updates or modifications thereto or derivatives thereof made by Contractor ("City Data"), and all intellectual property rights in the foregoing, whether or not provided to any other party under this Agreement. Subject to the restrictions articulated elsewhere in this Agreement, City grants Contractor a non-transferable, non-exclusive, terminable at-will license, solely for the term of this Agreement, to use City Data solely for purposes of performing the services pursuant to this Agreement for City's benefit.

b. Confidential Data

City Data is Confidential Information for the purposes of this Agreement. Contractor shall not use City Data for any purpose other than that of rendering the services under this Agreement, nor sell, assign, lease, dispose of or otherwise exploit City Data. Contractor shall not possess or assert any lien or other right against or to City Data. City may request an export of City Data stored within the systems or held by Contractor in any form or format at no charge to City.

c. Data Protection in General

The protection of personal privacy and personally identifiable data shall be an integral part of the business activities of Contractor, and Contractor shall use all reasonable efforts to prevent inappropriate or unauthorized use of City Data at any time and safeguard the confidentiality, integrity, and availability of City Data.

d. Data Protection Encryption

Unless otherwise stipulated in writing, Contractor shall encrypt all City Data at rest and in transit with controlled access. The Contractor shall apply and support encryption solutions that are certified against U.S. Federal Information and Processing Standard 140-2, Level 2, or equivalent industry standard, and verify that the encryption keys and keying material are not stored with any associated data. Whenever and wherever applicable, Contractor shall apply and support industry standards or better for tokenization, fraud-use protection, format-preserving encryption, and data encryption technology.

e. Data Protection Copying

At no time shall any City Data be copied, disclosed, or retained by Contractor or any party related to Contractor, including its subcontractors, for use in any process, publication, or transaction that is not specifically authorized by the City in writing.

f. Data Protection Hacking

Contractor shall secure and protect all City Data from hacking, viruses, ransomware, and denial of service and related attacks.

g. On Shore Development and Access

Contractor shall provide its services to the City and its end users solely from facilities / data centers in the continental United States of America. Storage of City Data at rest shall be located in the continental United States of America. Contractor shall not allow its personnel or subcontractors to store City Data on portable devices, including personal computers, except for devices that are used and kept only at Contractor's continental United States of America offices or data centers. Contractor may permit its personnel and subcontractors to access City Data remotely only as required to provide Contracted Services. Contractor shall neither access nor allow a third-party access to City Data from any location outside of the continental United States of America. Contractor shall not provide any services under this Agreement from a location outside of the continental United States of America, absent receipt of City's express approval. For purposes of support services provided in association with the Service Level Agreement, City's approval may come via e-mail or other written instrument from the Department's Chief Information Officer.

h. Access Limitations

Contractor shall use precautions, including, but not limited to, physical software and network security measures, personnel screening, training and supervision, and appropriate agreements to prevent anyone other than authorized City personnel, users and subcontractors with a specific need to know, for a purpose authorized under this Agreement, from monitoring, using, or gaining access to City Data. The Contractor shall also protect appropriate copies of City Data from loss, corruption, or unauthorized alteration; and prevent the disclosure of City and Contractor usernames, passwords, API keys, and other access control information to anyone other than authorized City personnel.

i. Least Privilege

Contractor shall authorize access only to the minimum amount of resources required to fulfill the Contractor's responsibilities in this contract.

j. Separation of Duties

The Contractor shall, as much as practical, divide functions among its staff members to reduce the risk of creating an undue dependency on one key person and reducing the risk of fraud being undetected.

k. Role-Based Security

The Contractor shall restrict access to authorized users and base access control on the role a user plays in the Contractor's organization.

l. Credential Restrictions

Contractor shall restrict the use of, and access to, administrative credentials for accounts and system services accessing City Data, to only those of Contractor's personnel and subcontractors whose access is essential for the purpose of providing the Contracted Services or performing obligations under this Agreement. Contractor shall require personnel and subcontractors to log on using an assigned user-name and password when administering City accounts or accessing City Data. These controls must enable Contractor to promptly revoke or change access in response to terminations or changes in job functions, as applicable. Contractor shall encrypt all passwords, passphrases, and PINs, using solutions that are certified against U.S. Federal Information and Processing Standard 140-2, Level 2, or equivalent industry standard, and verify that the encryption keys and keying material are not stored with any associated data. Contractor shall implement any City request to revoke or modify user access within twenty-four (24) hours or the next business day of receipt of City's request. Contractor shall disable user accounts after, at most, ten (10) consecutive invalid authentication attempts. References to "subcontractor" in the Pledge of Compliance document is limited to subcontractors providing professional services.

m. Physical and Environmental Security

Contractor facilities that process City Data must provide a physically secure environment from unauthorized access, damage, and interference.

n. Operational Controls

Contractor shall implement operational procedures and controls designed to ensure that technology and information systems are configured and maintained according to prescribed internal standards and consistent with applicable Industry Standard Safeguards. Examples of Industry Standard Safeguards are ISO/IEC 27002:2005, NIST 800-44, Microsoft Security Hardening Guidelines, OWASP Guide to Building Secure Web Applications, SOC 2 Type 2, and the various Center for Internet Security Standards. Moreover, Contractor shall use application security and software development controls designed to eliminate and minimize the introduction of security vulnerabilities.

o. Antivirus

Contractor shall have and maintain antivirus protection configured to automatically search for and download updates (daily, at a minimum) and perform continuous virus scans. Malware and threat detection must be updated continuously, and software patches provided by vendors must be downloaded and implemented in a timely manner. If Contractor is unable to implement these controls in a timely manner, Contractor shall notify City in writing.

p. Vulnerability Management and Patching

Contractor shall employ vulnerability management and regular application, operating system, and other infrastructure patching procedures and technologies designed to identify, assess, mitigate, and protect against new and existing security vulnerabilities and threats, including viruses, bots, and other malicious code.

q. Network Controls

Contractor shall have, shall implement, and shall maintain network security controls, including the use of firewalls, layered DMZs and updated intrusion detection and prevention systems, reasonably designed to protect systems from intrusion or limit the scope or success of any attack or attempt at unauthorized access to City Data.

r. Logging and Monitoring

Unless prohibited by applicable law, Contractor shall, and shall require subcontractors to, continuously monitor its networks and personnel for malicious activity and other activity that may cause damage or vulnerability to City Data. Contractor shall maintain logs of administrator and operator activity and data recovery events related to City Data.

s. Changes in Service

Contractor shall notify the City of any changes, enhancement, and upgrades to the System Administration and Network Security, or changes in other related services, policies, and procedures, as applicable, which can adversely impact the security of City Data.

t. Policies

Contractor shall, and shall require subcontractors to, establish and maintain a formal, documented, mandated, company-wide information security program, including security policies, standards, and procedures (collectively "Information Security Policy"), and communicate the Information Security Policy to all of its respective personnel in a relevant, accessible, and understandable form. Contractor shall regularly review and evaluate the Information Security Policy to ensure its operational effectiveness, compliance with all applicable laws and regulations, and to address new threats and risks.

Upon execution of this Agreement and thereafter within three (3) days of City's request, Contractor shall make available for review by the City Contractor's Information Security Policy and any related SOC audits or other evidence that Contractor has in place appropriate policies and procedures regarding information protection and security.

u. Vulnerability and Risk Assessments

At least annually, Contractor shall perform vulnerability tests and assessments of all systems that contain City Data. For any of Contractor's applications that process City Data, such testing must also include penetration tests using intercept proxies to identify security vulnerabilities that cannot be discovered using automated tools, and code review or other manual verifications to occur at least annually.

v. Right of Audits by City/Security Review Rights

City and its agents, auditors (internal and external), regulators, and other representatives as City may designate, may inspect, examine, and review the facilities, books, systems, records, data, practices, and procedures of Contractor (and any personnel) that are used in rendering services to City to verify the integrity of City Confidential Information and to monitor compliance with the confidentiality and security requirements for City Confidential Information. In lieu of an on-site audit, at City's discretion and upon request by the City, the Contractor agrees to complete, within fourteen (14) days of receipt, an audit questionnaire provided by the City regarding the Contractor's data privacy and information security program. Contractor shall comply with all recommendations that result from such inspections, tests, and audits within reasonable timeframes.

w. Data Backup and Emergency Recovery

Contractor shall employ a multilayered approach to backups and disaster recovery, including the use of a primary data center and a backup data center. Contractor shall perform both local and remote backups of the complete server infrastructure, including server operating systems, applications, and data. Contractor shall perform Disaster Recovery Tests no less than annually. Contractor shall maintain and comply with a reasonable written plan (the "DR Plan") setting forth procedures for (a) mitigating disruption to systems during and after an earthquake, hurricane, other natural disaster, war, act of terrorism, act of cyberterrorism, and other natural or man-made disaster, including without limitation Force Majeure Events (as that term is used in PSC-6, Excusable Delays, of the Standard Provisions for City Contracts (Rev. 1/25)[v.2] (collectively, a "Disaster"); and (b) restoring Service functionality promptly after a Disaster. The DR Plan will include procedures no less protective than industry standard, and Contractor shall update the DR Plan as the industry standard changes.

x. Data Return and Destruction

At the conclusion of the Agreement and as instructed by City, Contractor shall (at its sole cost) return in Microsoft SQL format, delete, or destroy City Data then in its possession or under its control including, without limitation, originals, and copies of such City data. The following types of information are excluded from this requirement: (i) City Data that becomes a part of the public domain, including through court filings; and (ii) City Data that Contractor is required to maintain, by law, regulations, or by the terms of this Agreement, but only for the time period required. For the avoidance of doubt, anything that is stored on routine backup media solely for the purpose of disaster recovery will be subject to destruction in due course rather than immediate return or destruction pursuant to this paragraph, provided that Personnel are precluded from accessing such information in the ordinary course of business prior to destruction.

Contractor shall implement and utilize appropriate methods to ensure the destruction of City Data. Such methods shall be in accordance with recognized Industry best practices and shall leave no data recoverable on Contractor's computers or other media.

Contractor agrees to certify that City Data has been returned, deleted, or destroyed from its systems, servers, off-site storage facilities, office locations, and any other location where Contractor maintains City Data within forty-five (45) days of receiving City's request that the information be returned, deleted, or destroyed. Contractor shall document its verification of data removal, including tracking of all media requiring cleaning, purging or destruction.

y. Data Breach

Contractor shall notify City in writing as soon as reasonably feasible, but in any event within forty-eight hours, or if later, the next business day after Contractor's discovery of any unauthorized access of City Data or Contractor becoming reasonably certain that such unauthorized access has occurred (a "Data Breach"), or of any event that compromises the integrity, confidentiality or availability of City Data (a "Security Incident"), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. Contractor shall begin remediation immediately. Contractor shall provide daily updates if requested by City, and, in any event, reasonably frequent updates, regarding findings and actions performed by Contractor until the Data Breach or Security Incident has been resolved to City's satisfaction. Contractor shall conduct an investigation of the Data Breach or Security Incident and shall share a report of the investigation findings with City. At City's sole discretion, City and/or its authorized agents shall have the right to conduct an independent investigation of a Data Breach. Contractor shall cooperate fully with City and its agents in that investigation. If the City is subject to liability for any Data Breach or Security Incident, the Contractor shall fully indemnify and hold harmless the City and defend against any resulting actions.

z. Confidentiality

1. City's Confidential Information

For purposes of this section, "Confidential Information" means any nonpublic information whether disclosed orally or in written or digital media, received by Contractor that is either marked as "Confidential" or "Proprietary" or which the Contractor knows or should have known is confidential or proprietary information. City Data shall be treated as Confidential Information by Contractor under this Agreement, even if such data is not marked "Confidential" or "Proprietary" or was obtained by or transferred to Contractor prior to the effective date of this Agreement.

2. Protection of Confidential Information

Except as expressly authorized herein, Contractor shall (a) hold in confidence and not disclose any Confidential Information to third parties and (b) not use Confidential Information for any purpose other than fulfilling its obligations and exercising its rights under this Agreement or performing the contracted services. Contractor shall limit access to Confidential Information to Contractor personnel and subcontractors that are previously disclosed to City and, (1) who have a need to know such information for the purpose of Contractor performing its obligations or exercising its rights under this Agreement, or performing Contracted Services; (2) who have confidentiality obligations no less restrictive than those set forth herein; and (3) who have been informed of the confidential nature of such information. In addition, the Contractor shall protect Confidential Information from unauthorized use, access, or disclosure in the same manner that it protects its own proprietary information of a similar nature, but in no event with less than reasonable care. At LAFD's request or upon termination or expiration of this Agreement, the Contractor shall return to LAFD any Deliverables not provided to the City and Contractor shall destroy (or permanently erase in the case of electronic files) all copies of Confidential Information, and Contractor shall, upon request, certify to City its compliance with this sentence.

3. Exceptions

The confidentiality obligations set forth in Section 6.8 shall not apply to any Confidential Information that (a) is at the time of disclosure or becomes generally available to the public through no fault of the Contractor; (b) is lawfully provided to the Contractor by a third party free of any confidentiality duties or obligations; (c) was already known to the Contractor at the time of disclosure free of any confidentiality duties or obligations; or (d) the Contractor can demonstrate was independently developed by personnel of the Contractor without reference to the Confidential Information. In addition, the Contractor may disclose Confidential Information to the extent that such disclosure is necessary for the Contractor to enforce its rights under this Agreement or is required by law or by the order of a court or similar judicial or administrative body, provided that (to the extent legally permissible) the Contractor promptly

notifies LAFD in writing of such required disclosure, cooperates with LAFD if LAFD seeks an appropriate protective order, and the Contractor discloses no more information that is legally required.

4. Compliance with Privacy Laws

Contractor is responsible for ensuring that Contractor's performance of its obligations and exercise of its rights under this Agreement complies with all applicable local, state, and federal privacy laws and regulations, as amended from time to time. If this Agreement or any practices which could be, or are, employed in performance of this Agreement become inconsistent with or fail to satisfy the requirements of any of these privacy laws and regulations, City and Contractor shall in good faith execute an amendment to this Agreement sufficient to comply with these laws and regulations and Contractor shall complete and deliver any documents necessary to show such compliance. The City acknowledges and agrees that Contractor is not responsible for giving any notices to or obtaining any consents from any other party in order for Contractor to process the City Data as contemplated by this Agreement.

6.9 Audits

- a. CONTRACTOR shall provide the LAFD access to all requested information related to this Agreement in order for the LAFD to perform appropriate and periodic audits; and
- b. The CITY will provide a one (1) week notice to CONTRACTOR before any periodic audit, which shall be conducted during the CONTRACTOR's normal business hours; and
- c. Audit reports may be run at any time.

6.10 Standards/Laws

- a. CONTRACTOR's Billing System shall comply with all applicable CITY, county, State, and Federal laws and rules governing emergency medical services billing; and
- b. CONTRACTOR shall create, implement and comply with a Compliance Plan consistent with the intent and activities included in the U.S. Office of Inspector General (OIG) Compliance Program Guidance for Third Party Medical Billing Companies 63 FR 70138; (December 18, 1998).

6.11 Reports

- a. CONTRACTOR's reporting system shall enable the LAFD to monitor, evaluate, manage and audit accurately the CONTRACTOR's performance under this Agreement; and

- b. CONTRACTOR shall provide the reports specified in the Procedures Manual as well as any other reports that CONTRACTOR provides in the normal course of business; and
- c. CONTRACTOR shall provide ad hoc reporting capability; and
- d. CONTRACTOR shall provide accounting reports in electronic format, pursuant to Generally Accepted Accounting Principles, on a monthly, quarterly, and annual basis; or as requested by the LAFD. Accounting reports shall be made available to the LAFD ten (10) business days after the end of the month.

6.12 Fee Changes

CONTRACTOR shall make recommendations to the LAFD regarding EMS Fee Ordinance amendments. CONTRACTOR shall abide by the CITY's Fee Ordinances. Any proposed change to the Fee Ordinances may only be made by amendment to the ordinances.

6.13 Access to and Maintenance of Records

- a. The CONTRACTOR shall make available its Software to authorized LAFD personnel twenty-four (24) hours each day and seven (7) days each week for the duration of this Agreement. CONTRACTOR's Billing System shall be capable of archiving and retrieving either electronic images or original billing records, signature verifications, and related data; and
- b. Access to data shall be limited to persons authorized by either the CONTRACTOR or the CITY. A complete access form for each of CITY's personnel authorized to access the Software must be submitted to and approved by CONTRACTOR as provided in the Procedures Manual; and
- c. CONTRACTOR shall maintain all records related to the performance of this Agreement in a format that meets all requirements under the law. CONTRACTOR may not destroy data without written approval of the Los Angeles City Attorney; and
- d. CONTRACTOR shall perform regular data backup, as provided in the Procedures Manual; and
- e. CONTRACTOR shall have a disaster recovery and business restoration plan in place. CONTRACTOR shall test its disaster recovery capabilities annually to ensure that data can be retrieved and made available to the LAFD. The LAFD may audit documentation of these capabilities periodically; and
- f. CONTRACTOR shall provide CITY with periodic data downloads, in a usable format by the CITY, of all patient account information, as further defined in the Procedures Manual; and

- g. All records must be returned to the LAFD upon expiration or termination of this Agreement, whichever occurs first.

7.0 OBLIGATIONS OF THE LAFD

7.1 Documentation

- a. The LAFD shall provide CONTRACTOR with patient encounter information on a timely basis and in sufficient detail to support diagnosis and procedure coding. The LAFD shall also provide patient demographic information necessary for accurate patient identification including name, address, social security number, date of birth, and telephone number, to the extent possible. Where possible, the LAFD will obtain and provide CONTRACTOR with patient health insurance, auto insurance, or other insurance information; and
- b. The LAFD shall provide CONTRACTOR with requested documents, to the extent possible.

7.2 Policies

The LAFD shall provide CONTRACTOR with its approved billing policies and procedures including Fee Ordinances. The LAFD may engage a third party collection service to collect uncollected accounts after CONTRACTOR has exhausted its billing efforts or returned the account to the LAFD, if necessary.

7.3 Refunds

The LAFD shall provide timely process for refunds identified by CONTRACTOR for account overpayments or wrong payments, providing CONTRACTOR supplies sufficient documentation to support the refund. If any refunds of patient accounts are required to be refunded or offset by any government and/or commercial payer as a result of CITY's violation of its obligations set forth in Section 7.6 Compliance (an "Excluded Person Refund"), CONTRACTOR shall not be required to refund the CITY any commissions or fees earned or previously paid to CONTRACTOR as a result of its collection of such Excluded Person Refund or otherwise include such Excluded Person Refunds in its calculation of Net Collections as set forth in Exhibit B - Fee Schedule.

7.4 Lock Box and Credit Cards

The LAFD shall provide a lock box address to CONTRACTOR and will instruct lock box vendor to forward all lock box documents to CONTRACTOR for processing if the LAFD desires to utilize the services of a lock box vendor. The LAFD agrees that it will be solely responsible for the cost of any and all lock box services related to EMS lock box deposits. The LAFD also agrees that it will be solely responsible for any cost associated with any credit card acceptance program in which the LAFD elects to participate.

7.5 Bank Balance

The LAFD shall, at its discretion, provide CONTRACTOR with daily bank balance reporting capabilities via the bank's designated web site for the EMS billing lock box account only.

7.6 Compliance

The LAFD shall cooperate with CONTRACTOR in all matters to ensure proper compliance with laws and regulations. Furthermore, CITY represents and warrants that all of its employees, personnel and independent contractors involved in the delivery of EMS or otherwise performing services for CITY: (i) hold the licensure or certification required to perform such services, (ii) have not been convicted of a criminal offense related to health care or been listed as debarred, excluded or otherwise ineligible for participation in a Federal health care program and (iii) are not excluded persons listed on any of the following: (a) the Office of the Inspector General List of Excluded Individuals and Entities; (b) the General Services Administration's Excluded Parties List; and (c) the Office of Foreign Asset Control's Specially Designated Nationals List.

7.7 Internet Access

CITY shall be responsible for providing its own Internet Access, and in no event shall CITY be provided with direct access (by modem or otherwise) to the Software server unless otherwise agreed by the Parties, other than access that is available to third parties generally through the Internet. The Parties acknowledge that, since the Internet is neither owned nor controlled by any other entity, CONTRACTOR makes no guarantee that any given user will be able to access the Software at any given time. There are no assurances that access will be available at all times and uninterrupted, and CONTRACTOR shall not be liable to CITY for its inability to access the Software.

7.8 Security Software

CITY acknowledges that it is solely responsible for providing security software, including without limitation, firewalls and similar applications, to prevent unauthorized access to its computer systems.

8.0 EXCLUSIVE AGREEMENT

The Parties understand and agree that this is an exclusive agreement to provide the CONTRACTOR's Billing System described herein. The LAFD will not enter into any other agreements for the services described in this Agreement before this Agreement expires or otherwise earlier terminates, unless agreed upon by the Parties through a written amendment to this Agreement. The CONTRACTOR understands that delinquent bill collections pursued under Los Angeles Administrative Code Section 5.181 are not covered by this Agreement. The CONTRACTOR understands that patient accounts for which the LAFD has commenced the billing process, but which are not transitioned to CONTRACTOR are not covered by this Agreement.

9.0 COMPENSATION AND METHOD OF PAYMENT

9.1 Compensation

- a. For satisfactory services rendered under this Agreement, the CITY shall pay the CONTRACTOR in accordance with Exhibit B - Fee Schedule. The CITY shall issue a check for the amount invoiced, less any disputed amounts, within thirty (30) days of approval of a complete invoice, but not later than forty (40) days after receipt. CONTRACTOR shall resolve any disputed amounts within sixty (60) days from the date the CITY gives notification of a dispute;
- b. CONTRACTOR's compensation will be adjusted by the performance guarantee, if applicable.

9.2 Method of Payment

The CONTRACTOR must include the following information, and any other documentation requested by the LAFD on each invoice, unless instructed otherwise by the LAFD:

- a. Date of invoice; and
- b. Invoice number; and
- c. Agreement number; and
- d. Description of services; and
- e. Amount of Invoice, including the basis of the calculation; and
- f. Detailed listing of the invoices paid by patient or insurance providers, including date of calculation, amount of collection, and basis of calculation of CONTRACTOR's fee; and
- g. A computation of the performance guarantee calculated in accordance with Section 10.0 Performance Penalty, if any.

Except as otherwise expressly provided for in Section 6.0, Services to be Provided, all other costs incurred by CONTRACTOR in the performance of the CONTRACTOR Services (including, but not limited to postage, materials, communications and phone costs and other operating costs) will be CONTRACTOR's sole responsibility.

10.0 PERFORMANCE PENALTY

10.1 Background

CONTRACTOR and CITY agree that optimizing collection performance requires that both CONTRACTOR and CITY meet their obligations under this Agreement. Based

on CONTRACTOR's projections of increased collections, and CITY's provision of historical financial and reimbursement performance information, CITY has established a Minimum Threshold as a collection performance standard.

10.2 Definitions for Performance Penalty:

Collections means the amount of money collected for transports associated with a specific date of service, reduced or increased by refunds, check deposits with non-sufficient funds (NSF), and any other applicable adjustment(s).

Billed Transports means any transport from a specific date of service for which an invoice is sent by CONTRACTOR to either a patient or a third party payer (e.g., insurance) and for which payment is otherwise expected. CONTRACTOR shall have the authority to determine which transports can be billed. CONTRACTOR will incorporate, among other things, the CITY's requirements of what accounts cannot be billed due to CITY policy. Examples of unbillable transports may include transports of patients who are homeless, transports for which the demographic information is inadequate for the successful delivery of an invoice to the patient, and transports for which insurance cannot be identified after reasonable attempts to identify the patient or patient insurance coverage through hospital outreach, skip tracing or insurance sweeps. Also excluded from the definition of Billed Transports are those accounts where CONTRACTOR, in its sole discretion, determines that submitting a claim would be in violation of law, regulations, or rules promulgated by any Federal, State, or local authority with relevant jurisdiction. Any transport that the CITY withdraws from the billing cycle due to policy reasons (e.g., police custody, accounts in litigation that the CITY pursues payment on) qualify as unbillable accounts for which payment is not expected by the CONTRACTOR.

Collections per Billed Transport means Collections divided by Billed Transports.

Performance Period means the fiscal year for which a potential performance penalty is being calculated.

Transport means any transport from a specific date of service for which charges are created and maintained on a patient account.

Collections per Transport means Collections divided by all Transports.

Minimum Threshold means the performance level, expressed as Collection per Billed Transport, used to compute the performance penalty, if any. The Minimum Threshold shall be subject to adjustments as provided in Section 10.3 Computation of the Performance Penalty, below. After fiscal year 2011/2012 the Minimum Threshold shall be adjusted annually to be equal to the actual Collection per Billed Transport for the previous fiscal year. The Minimum Threshold shall be measured on or about July 1 that occurs twelve (12) months after the Performance Period ends. The Minimum Threshold shall be adjusted when documented changes occur in the reimbursement environment, which are outside of the control of the CONTRACTOR and impact actual revenue by more than 5%.

For the fiscal year 2010/2011 and the fiscal year 2011/2012 the Minimum Threshold shall be \$348 per Billed Transport, unless otherwise adjusted under this Agreement. For each of those fiscal years, the actual Collection per Billed Transport was \$392.

For the fiscal year 2012/2013 the Minimum Threshold was \$392 with no adjustments required under this Agreement. The actual collection was \$391.

For fiscal year 2013/2014 the Minimum Threshold was \$391 with no adjustments required under this Agreement. The actual collection was \$373.

For fiscal year 2014/2015 the Minimum Threshold was \$373 with no adjustments required under this Agreement. The actual collection was \$369.

For fiscal year 2015/2016 the Minimum Threshold was \$369 with no adjustments required under this Agreement. The actual collection was \$365.

For fiscal year 2016/2017 the Minimum Threshold was \$365 with no adjustments required under this Agreement. The actual collection was \$359.

For fiscal year 2017/2018 the Minimum Threshold was \$359 with no adjustments required under this Agreement. The actual collection was \$372.

For fiscal year 2018/2019 the Minimum Threshold was \$372 with no adjustments required under this Agreement. The actual collection was \$433.

For fiscal year 2019/2020 the Minimum Threshold was \$433 with no adjustments required under this Agreement. The actual collection was \$437.

For fiscal year 2020/2021 the Minimum Threshold was \$437 with no adjustments required under this Agreement. The actual collection was \$477.

For fiscal year 2021/2022 the Minimum Threshold was \$477 with no adjustments required under this Agreement. The actual collection was \$520.

For fiscal year 2022/2023 the Minimum Threshold was \$520 with no adjustments required under this Agreement. The actual collection was \$671.

For fiscal year 2023/2024 the Minimum Threshold was \$671 with no adjustments required under this Agreement. The actual collection was \$900.

For fiscal year 2024/2025 the Minimum Threshold shall be measured on or about July 1, 2026.

For fiscal year 2025/2026 the Minimum Threshold shall be measured on or about July 1, 2027.

For fiscal year 2026/2027 the Minimum Threshold shall be measured on or about July 1, 2028.

For fiscal year 2027/2028 the Minimum Threshold shall be measured on or about July 1, 2029.

For fiscal year 2028/2029 the Minimum Threshold shall be measured on or about July 1, 2030.

Annual Fee means the actual fees paid to the CONTRACTOR by CITY for services rendered by CONTRACTOR for Billed Transports for which the date of transport occurs during the Performance Period as defined in Exhibit B - Fee Schedule.

10.3 Computation of the Performance Penalty

10.3.1 For the fiscal year 2010/2011 and fiscal year 2011/2012 only:

a. Performance Penalty Schedule

<u>% of Minimum Threshold Achieved</u>	<u>Performance Penalty %</u>
100% or greater	0%
90-99%	5% of Annual Fee
80-89%	10% of Annual Fee
70-79%	25% of Annual Fee
<70%	50% of Annual Fee

b. Minimum Threshold Reset - The computation of a Minimum Threshold for the initial two (2) fiscal years involved certain assumptions to be made about past and projected collections performance. It is recognized that the CITY's information about past collection performance is incomplete and based on data definition and billing practices that do not reflect certain billing policies that CONTRACTOR may implement. Accordingly, if any of the below assumptions prove to be materially incorrect (defined as a greater than 2% variance between the actual amounts ultimately realized and the assumed amounts), the Minimum Threshold for that fiscal year shall be reset to equal the actual Collections per Billed Transport for that fiscal year or portion of the fiscal year for which the CONTRACTOR had sole billing responsibility;

i. The initial Minimum Threshold computation assumes that total Collections for the fiscal year 2010/2011 will equal \$63,000,000. The Minimum Threshold Reset provisions shall apply if the actual Collections for the portion of the fiscal year 2010/2011 that CONTRACTOR has sole billing responsibility are less than a prorated portion of \$63,000,000, and the shortfall is due either to inaccuracies in the computation of the assumption or to circumstances beyond the control of the CONTRACTOR. The proration will be done based upon the number of days during the fiscal year that CONTRACTOR has sole billing responsibility. For example, if CONTRACTOR assumes sole billing responsibility for all transports that occur on or after September 1, 2010, then the prorated reimbursement assumption

shall be \$63,000,000 multiplied by 303 days/365 days which equals \$52,298,630;

- ii. The Minimum Threshold computation assumes that Billed Transports for the Fiscal Year 2010/2011 will equal 181,000, which was determined by computing an average number of Billed Transports over the past seven (7) fiscal years. This will apply if the actual Billed Transports for the portion of the fiscal year that CONTRACTOR has sole billing responsibility are materially more than a prorated portion of the 181,000 assumed Billed Transports, and if that variance results from either an inaccurate assumption or to circumstances beyond the control of the CONTRACTOR;
- iii. The Minimum Threshold computation assumes that there will be no material changes in the amount or timing of reimbursement by major payers such as Medicare, Medi-Cal, workers compensation, or commercial insurance carriers as a result of fee schedule changes, Federal or California Healthcare reform, other Federal or State legislative or regulatory actions, CITY, California, or Federal fiscal distress, or any other reason beyond the control of the CONTRACTOR. In the event such changes occur, the Minimum Threshold reset provision outlined in this Section will apply.

10.3.2 For fiscal year 2012/2013 through to fiscal year 2013/2014

- a. Performance Penalty Schedule - If the actual Collection per Billed Transport for the Performance Period is less than the Minimum Threshold, as defined in section 10.2 Definitions for Performance Penalty and, if necessary, reset under Section 10.3.2.b outlined below, CONTRACTOR shall incur a Performance Penalty in accordance with the following schedule:

<u>%of Minimum Threshold Achieved</u>	<u>Performance Penalty %</u>
95% or greater	0%
90-94%	5% of Annual Fee
80-89%	10% of Annual Fee
70-79%	25% of Annual Fee
<70%	50% of Annual Fee

- b. Performance Penalty Calculation - The calculation of the Performance Penalty will be done on a date of service basis, and will be performed twelve (12) months from the last month of the end of the Performance Period and shall be computed by comparing the Collections per Billed Transport for the Performance Period to the Minimum Threshold.

CONTRACTOR will provide a Performance Penalty calculation to the LAFD within thirty (30) days from the date such Performance Penalty, is calculated. If the CONTRACTOR does not meet the Minimum Threshold, and documents that the reasons for not meeting the Minimum Threshold

were both material and related to factors outside of its control, the LAFD shall adjust the Minimum Threshold to account for the factors outside the CONTRACTOR's control and the Performance Penalty will be recalculated based on the adjusted Minimum Threshold. For the purposes of this clause material shall mean changes outside the CONTRACTOR's control that impact Collections per Billed Transport by more than 5% compared to the Minimum Threshold.

For each Performance Period where any penalties have been imposed and CONTRACTOR subsequently achieves the Minimum Threshold, 80% of the penalty shall be recouped by CONTRACTOR.

- c. Performance Penalty from 2012/2013 through 2014/2015 – Effective with the collection of accounts with a service date of July 1, 2015 and beyond, this section will no longer be utilized to calculate the annual performance penalty.

10.3.3 For fiscal year 2015/2016 onward:

- a. Performance Penalty Schedule – Should the actual Collection per Billed Transport for the Performance Period be less than the Minimum Threshold, as defined in section 10.2 Definitions for Performance Penalty and, if necessary, reset under the Section 10.3.3.b outlined below, CONTRACTOR shall incur a Performance Penalty in accordance with the following Schedule:

<u>% of Minimum Threshold Achieved</u>	<u>Performance Penalty %</u>
95.00% or greater	No Penalty
90.00 – 94.99%	5% of Annual Fee
80.00 – 89.99%	10% of Annual Fee
70.00 – 79.99%	25% of Annual Fee
Less than 70.00%	50% of Annual Fee

- b. Performance Penalty Calculation – the calculation of the Performance Penalty will be done on a date of service basis, and will be performed twelve (12) months from the last month of the end of the Performance Period, and shall be computed by comparing the Collections per Billed Transports for the Performance Period to the Minimum Threshold. For purposes of Section 10.3.3, the measurement of the Minimum Threshold shall apply to all accounts with a service date commencing on July 1st, of each year, through to the following June 30th, and the measurement shall be made within ten (10) calendar days following twenty-four (24) months after the start of the performance period (e.g., a performance period of July 1, 2014 through to June 30, 2015, the Minimum Threshold must be calculated between July 1, 2016 and July 10, 2016).

CONTRACTOR will provide a Performance Penalty calculation to the LAFD within five (5) days from the date such Performance Penalty is calculated. If the CONTRACTOR does not meet the Minimum Threshold and

documents that the reasons for not meeting the Minimum Threshold were both material and related to factors outside its control, the LAFD shall adjust the Minimum Threshold to account for the factors outside the CONTRACTOR's control and the Performance Penalty will be recalculated based on the adjusted Minimum Threshold. For the purposes of this clause material shall mean changes outside the CONTRACTOR's control that impact Collections per Billed Transport by more than 5% compared to the Minimum Threshold.

For a Performance Period where any penalties are to be imposed, the CONTRACTOR will be afforded a grace period of six (6) months following the initial calculation of the performance penalty to achieve the previously established Minimum Threshold. If the Contractor does not achieve the Minimum Threshold by the end of the six (6) month grace period, the Performance Penalty shall be due, immediately, unless otherwise agreed by the Parties.

11.0 COMPLIANCE STANDARDS

11.1 Compliance Program. CONTRACTOR shall have a compliance program that encompasses the following elements, to assure compliance with all applicable laws and conform to best practices in the field of emergency medical services billing and soft collections, throughout the performance of this Agreement.

- a. The development and distribution of written standards of conduct, as well as written policies and procedures that promote the billing company's commitment to compliance (e.g., by including adherence to the compliance program as an element in evaluating managers and employees, subcontractors and agents) and that addresses specific areas of potential fraud, such as the claims submission process, code gaming and financial relationships with its providers;
- b. The designation of a chief compliance officer and other appropriate bodies, e.g., a corporate compliance committee, charged with the responsibility of operating and monitoring the compliance program and who report directly to the CONTRACTOR's senior leadership and the governing body/board;
- c. The development and implementation of regular, effective education and training programs for all affected employees, subcontractors and agents;
- d. The creation and maintenance of process, such as a hotline, to receive complaints and the adoption of procedures to protect the anonymity of complainants and to protect callers from retaliation;
- e. The development of a system to respond to allegations of improper/illegal activities and the enforcement of appropriate disciplinary action against employees who have violated internal compliance policies, applicable status, regulations or Federal, State or private payer health care program requirements;

- f. The use of audits and/or other risk evaluation techniques to monitor compliance and assist in the reduction of identified program areas;
- g. The investigation and correction of identified systemic programs and the development of policies addressing the non-employment of sanctioned individuals;
- h. At any point, the LAFD may participate in the Compliance Program and may request additional details regarding the accounts reviewed. In instances where changes are made as a result of the claims review findings, the LAFD may audit the effectiveness of the new process or request the CONTRACTOR to do so.

11.2 Claims Review:

- a. CONTRACTOR shall perform a claims review, using a random sample of 500 accounts, on a quarterly basis. The CONTRACTOR shall select a random sample of 500 accounts and will review the accounts for accuracy of:
 - i. Coding; and
 - ii. Medical necessity determination on government claims; and
 - iii. Charges captured (all and proper); and
 - iv. Charges to the LAFD's charge master; and
 - v. Claim filing; and
 - vi. Signatures documented for Medicare claims; and
 - vii. Payments and adjustments posted correctly to account (for time lagged accounts); and
 - viii. Patient invoicing, where applicable, occurred correctly (for time lagged accounts).
- b. CONTRACTOR shall base its sample selection on Federal Governmental Accountability Standards (RAT-STAT); and
- c. For each area identified above, the CONTRACTOR shall divide the number of problem accounts by five hundred (500). In any area where the error rate exceeds 5%, CONTRACTOR shall research the root cause of the problem, document the remediation plan, and then implement the plan; and
- d. The claims review will result in a summary report of the findings, which at minimum, will include:
 - i. An overview of the findings; and

- ii. Specific results for the various areas audited; and
 - iii. In any area where the audit identified less than 90% accuracy, an explanation of the remediation activities the CONTRACTOR shall implement.
- e. The CONTRACTOR shall retain the audit documentation for at least thirty-six (36) months should the LAFD wish to review the accounts in detail.

12.0 KEY PERSONNEL

12.1 LAFD Key Personnel

- a. Project Manager as designated by the Fire Chief.
- b. System Administrator.

The System Administrator shall be designated by the LAFD Information Systems Manager (ISM) the Procedures Manual referenced in Section 4.0 of this Agreement.

- c. Authorized Users.

The LAFD shall, through its Management Information Systems Section, maintain a list of authorized users to the CONTRACTOR's System, which will be reviewed and updated as changes occur.

12.2 CONTRACTOR Key Personnel

- a. A Staff Assignment Table, as defined in the Procedures Manual, lists all Key Personnel and their assignments during the project, including any subcontractor personnel. The table contains all key assigned personnel who have been approved for work on this project, including replacement personnel who may be substituted for an assigned staff member should they ultimately be unavailable;
- b. The LAFD reserves the right to approve or disapprove key personnel. The LAFD will allow a CONTRACTOR or subcontractor to substitute out key personnel upon the LAFD written approval, as long as approval is not unreasonably withheld, conditioned, or delayed. Replacement of reassigned personnel, if approved, shall be with personnel with equal or greater ability and qualifications, and provided at no charge for their first ten (10) business days following their start date. In addition, the LAFD reserves the right to require a replacement of personnel whom the LAFD judges to be unsuitable, or whose continued use is deemed to be contrary to the best interest of the LAFD.

13.0 CONFIDENTIALITY

13.1 Confidentiality

- a. Confidential Information. The Parties agree that any Confidential Information provided under this Agreement shall be held and maintained in strict confidence, subject to applicable statutory requirements regarding public records. Each party agrees to protect the Confidential Information of the other party in a manner consistent with the protections used to protect its own Confidential Information, including, without limitation, informing its employees of its obligations under this Agreement and taking such steps as are reasonable in the circumstances, or as reasonably requested by the other party, to prevent any unauthorized disclosure, copying or use of Confidential Information. Confidential Information means any proprietary or other information that is required or allowed to be maintained in confidence under the laws governing a municipal corporation including software, Billing System and intellectual property. Confidential Information shall also include PHI as defined in Exhibit C - Business Associate Agreement. The LAFD recognizes that the CONTRACTOR may desire to protect information relating to its business from disclosure under the California Public Records Act under circumstances when the CITY determines that disclosure is otherwise appropriate. Therefore, the LAFD shall notify the CONTRACTOR of every California Public Records request, immediately upon receipt;
- b. The CONTRACTOR must ensure that each individual sent on an assignment under this Agreement shall have executed a Confidentiality Agreement prior to commencing any assignment. CONTRACTOR agrees to provide the signed Confidentiality Agreement to the LAFD prior to commencing any assignment. The Confidentiality Agreement to be used is attached hereto as Exhibit D – Confidentiality Agreement. The CONTRACTOR is responsible for ensuring compliance with the Confidentiality Agreements;
- c. CONTRACTOR shall protect the confidentiality of all patient records as set forth in State and/or Federal laws on confidentiality of medical records;
- d. Unauthorized Disclosure. The recipient of any Confidential Information shall, upon discovery of any unauthorized use or disclosure of such Confidential Information by recipient, or any other breach of these confidentiality obligations by the recipient, fully cooperate with the disclosing party to assist the disclosing party regain possession of the Confidential Information and prevent the further unauthorized use or disclosure of the Confidential Information.

13.2 CONTRACTOR'S Interaction with the Media

CONTRACTOR shall refer all inquiries from the media to the LAFD, shall contact the LAFD, as soon as practical, to inform the LAFD of the inquiry, and shall comply with the procedures of the LAFD'S public affairs staff regarding statements to the media relating to this Agreement or CONTRACTOR'S services hereunder.

13.3 Requirements Apply to All Subcontractors

The CONTRACTOR shall ensure that these requirements are provided to and apply to all Subcontractors of this Agreement.

13.4 Continued Requirements

The requirements of this Section survive termination of this Agreement.

14.0 INSURANCE

14.1 CONTRACTOR shall procure and maintain for the duration of this Agreement, the following insurance coverage:

- a. Workers' Compensation insurance in compliance with the applicable state and federal laws, and not less than \$1,000,000; and
- b. General Liability insurance in an amount no less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and
- c. Coverage for business interruption, destruction of data processing equipment and media, liabilities affecting accounts receivable, and valuable documents in an amount no less than \$5,000,000 aggregate; and
- d. Liability coverage for all vehicles whether owned, hired or used in the amount of \$1,000,000.
- e. Professional Liability coverage shall include Errors & Omissions coverage and a Cyber Liability policy in the amount of \$5,000,000.

14.2 The policies are to contain, or be endorsed to contain, the following provisions:

- a. General Liability and Automobile Liability Coverage
 - i. The LAFD, its officers, officials, employees and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of the CONTRACTOR, including the insured general supervision of the CONTRACTOR; products and completed operations of the CONTRACTOR; premises owned, occupied or used by the CONTRACTOR; or automobiles owned, leased, hired or borrowed by the CONTRACTOR. The coverage shall contain no special limitations on the scope of protections afforded by the LAFD, its officers, officials, employees or volunteers; and
 - ii. CONTRACTOR's insurance coverage shall be primary insurance as respects the LAFD, its officers, officials, employees and volunteers. Any insurance of self-insurance maintained by the LAFD, its officers, officials, employees or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it. CONTRACTOR hereby waives subrogation rights for loss or damage against the LAFD; and

- iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the LAFD, its officers, officials, employees or volunteers; and
 - iv. CONTRACTOR's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability; and
 - v. Companies issuing the insurance policy, or policies, shall have no recourse against the LAFD for payment of premiums or assessments for any deductibles which are all at the sole responsibility and risk of the CONTRACTOR.
- b. All Coverage
- i. Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the LAFD; and
 - ii. CONTRACTOR shall furnish the LAFD with certificates of insurance and with original endorsements effecting coverage required by this Section if requested. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the LAFD before work commences. The LAFD reserves the right to require complete, certified copies of all required insurance policies at any time; and
 - iii. Payment Withholding: Should any of CONTRACTOR or Subcontractor's required insurance lapse during the term of the Agreement, the CITY shall not process any requests for payments originating after such lapse until the CITY receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. CITY shall notify CONTRACTOR of any payment withholding and the reason for the withholding.

15.0 AGREEMENT TERMINATION

15.1 Termination for Convenience

The CITY may terminate this Agreement for the CITY's convenience at any time by giving CONTRACTOR at least ninety (90) days written notice thereof. Upon receipt of said notice, CONTRACTOR shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The CITY shall pay CONTRACTOR its fees through the effective date of termination and those reasonable and necessary costs incurred by CONTRACTOR to affect such termination. Thereafter, CONTRACTOR shall have no further claims against the CITY under this

Agreement. All finished and unfinished documents and materials procured for or produced under this Agreement, including all intellectual property rights thereto, shall become CITY property upon the date of such termination. CONTRACTOR agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY's ownership of rights provided herein. CONTRACTOR may terminate this Agreement without cause upon six (6) months prior written notice to CITY.

15.2 Termination for Breach of Agreement

- a. If CONTRACTOR fails to perform a material component of the provisions of this Agreement, the CITY may give CONTRACTOR written notice of a default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to the CITY within the time permitted by the CITY, then the CITY may terminate this Agreement due to CONTRACTOR's breach of this Agreement; and
- b. If CONTRACTOR engages in any dishonest conduct related to the performance or administration of this Agreement or violates the CITY's lobbying policies, then the CITY may immediately terminate this Agreement; and
- c. In the event the CITY terminates this Agreement as provided in Section 15.2 Termination for Breach of Agreement, Paragraphs a. and b. above, the CITY may procure, upon such terms and in such manner as the CITY may deem appropriate, services similar in scope and level of effort to those so terminated, and CONTRACTOR shall be liable to the CITY for all reasonable costs associated with the change; and
- d. If CITY materially fails to perform any obligation required hereunder, and such default continues for thirty (30) calendar days after written notice from CONTRACTOR specifying the nature and extent of the failure to materially perform such obligation, this Agreement shall terminate upon the expiration of said thirty (30) calendar day period.

15.3 General

- a. All finished or unfinished CITY documents and materials produced or procured under this Agreement, including all intellectual property rights thereto, shall become CITY property upon date of such termination and returned to the CITY promptly. CONTRACTOR agrees to execute any documents necessary for the CITY to perfect, memorialize, or record the CITY's ownership of rights provided herein; and
- b. If, after notice of termination of this Agreement under the provisions of this section, it is determined for any reason that CONTRACTOR was not in default under the provisions of this section, or that the default was excusable under the terms of this Agreement, the rights and obligations of the Parties shall be

the same as if the notice of termination had been issued pursuant to Section 15.1 Termination for Convenience, above; and

- c. The rights and remedies of either party provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement; and
- d. The amount due to the CONTRACTOR by reason of termination shall be determined as follows:
 - i. If the termination is for the CITY's convenience, the CONTRACTOR will be paid in accordance with Section 9.0 Compensation and Method of Payment of this Agreement; and
 - ii. If the termination is for the CONTRACTOR's default, the total sum payable to the CONTRACTOR will be determined in accordance with Section 9.0 Compensation and Method of Payment of this Agreement. The CITY, however, may retain from said payment an amount equal to any additional costs incurred by the CITY in completing that part of the work that is in default.

16.0 DISENGAGEMENT

16.1 Disengagement Services

Scope. Upon expiration or termination of this Agreement for any reason, the CONTRACTOR shall fully cooperate with the CITY to ensure a smooth and orderly transition of services. CONTRACTOR shall provide reasonable transition assistance, including but not limited to: (i) returning or exporting all City Data in Microsoft SQL, (ii) assisting in the migration of City Data to the CITY or its designee, (iii) providing documentation, technical specifications, and training necessary to support continued operations, and (iv) making CONTRACTOR personnel reasonably available to CITY staff during the transition period.

- b. Rates. CONTRACTOR shall provide disengagement services at rates approved by the Los Angeles Fire Department Chief Information Officer, in concert with the City Attorney's Office, not to exceed the following schedule unless otherwise agreed in writing:

Technical personnel: \$150 per hour
Project management personnel: \$175 per hour
Executive or specialized personnel: \$200 per hour

- c. Cap on Costs. The total cost of disengagement services under this Section shall not exceed \$250,000 (inclusive of all labor, materials, and incidental

expenses), unless expressly approved in writing by the LAFD Chief Information Officer in consultation with the City Attorney's Office.

- d. No Additional Fees. CONTRACTOR shall not charge the CITY any additional fees for the return of City Data in the agreed format, for certification of destruction, or for any activities reasonably required to comply with Section 6.8 (Data Management, Security, and Privacy).
- e. Timeline. Unless otherwise agreed in writing, disengagement services must be completed within ninety (90) days of the expiration or termination date of this Agreement.

16.2 Disengagement Process

a. Disengagement Standards

In the event of expiration or termination of the Agreement for whatever reason both parties will comply with Disengagement Standards:

- i. The CITY shall nonetheless continue to have all rights to use and maintain for its own benefit any and all Deliverables completed and delivered as if no expiration or termination had taken place, subject to payment for such Deliverables; CONTRACTOR shall not take any action to intentionally erase any City Data until directed to do so in writing by the CITY.
- ii. The expired or terminated Services shall be transferred to CITY or its successor(s) in an efficient and orderly manner.
- iii. The expired or terminated Services shall continue to be performed by CONTRACTOR without disruption or deterioration until the transfer has occurred: (i) consistent with the terms and conditions of this Agreement, or (ii) except as approved by CITY at the then current rate.
- iv. In an effort to facilitate transition of responsibilities, the key personnel, if any, will continue to apply during the agreed Disengagement Assistance Services term.
- v. CONTRACTOR will at no additional charge provide CITY with a copy of City Data in Microsoft SQL electronic format, readily accessible by CITY as required for the disengagement of CONTRACTOR'S services hereunder.
- vi. Upon completion of Disengagement, CITY will return to CONTRACTOR any Contractor Confidential Information or Contractor Materials in CITY'S possession or control and cease all access to the Licensed Program. CONTRACTOR will return to CITY any City Confidential Information or City Materials in CONTRACTOR'S possession.

- vii. Upon completion of Disengagement, and at the written request of CITY, the CONTRACTOR shall securely dispose of all requested data in all of its forms, such as disk, CD/DVD, backup tape and paper, when requested by CITY. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to CITY.

b. Disengagement Assistance Plan

In the event of an expiration or termination under Section 15.0, CONTRACTOR shall assist CITY (and Contractor's Successor, if applicable) to create a Disengagement Assistance Plan. The contents of the Disengagement Assistance Plan will include, unless otherwise agreed, the services, functions, and activities as defined below:

- i. Description of actions to be taken by CONTRACTOR in performing Disengagement Assistance Services, the estimated hours required to perform the work, the personnel classifications required and at a blended hourly rate determined in accordance with Section 16.1.b, and the total estimated cost for the Disengagement Assistance Services. The description shall include mutually agreed upon incremental Deliverables tied to project progress. Responsibility for payment for Disengagement Services shall be determined by the cause of termination as described in Section 16.2.d Responsibility for Payment of Disengagement Assistance Services. The infrastructure to be provided and included in the Disengagement Assistance Plan shall be determined upon consultation with and approval by CITY.
- ii. Description of how the transfer of (i) relevant information regarding the Services, (ii) resources (if any), (iii) operations and (iv) agreements (if any) will be achieved.
- iii. Set out the timeline for the transfer of each component of the terminated Services (including key milestones to track the progress of the transfer).
- iv. Define a schedule and plan for CONTRACTOR'S return to CITY of Confidential Information, City Data, documents, records, files, tapes and disks in CONTRACTOR'S possession.

c. Disengagement Management Team

- i. CONTRACTOR shall provide a senior Project manager who shall be responsible for CONTRACTOR'S overall performance of the Disengagement Assistance Services and who shall be the primary point of contact for CITY in respect of the Disengagement Assistance Services during the Disengagement Assistance Period.

- ii. The CITY shall appoint a senior Project manager who will be the primary point of contact for CONTRACTOR during the Disengagement Assistance Period.
- d. Responsibility for Payment of Disengagement Assistance Services
- i. In the event of expiration of the Agreement (“Agreement Expiration”) or Termination for Convenience: CITY may request CONTRACTOR assistance in the Disengagement Process. CONTRACTOR shall perform reasonable Disengagement Services as agreed to in the Disengagement Assistance Plan at CITY’S expense at rates approved by the LAFD Chief Information Officer and City Attorney and subject to the limits of Sections 16.1.b through 16.1.d.
 - ii. In the event of Termination for Breach, CITY may do either of the following:
 - a) Follow the provisions of Section 16.2.d.i.
 - b) CITY may procure, upon such terms and in such manner as CITY may deem appropriate, services similar in scope and level of effort to those so terminated.

16.3 Disengagement Services Upon Agreement Expiration

Prior to the expiration of this Agreement, CITY may evaluate whether to allow expiration or undertake renewal of this Agreement, and may consider obtaining provisions for performance of services similar to the Services following expiration of this Agreement or to return these services to CITY for ongoing operation.

- a. As and when reasonably requested by CITY for use in such an evaluation process, to the extent possible without interfering with CONTRACTOR’S performance of the Services under this Agreement, CONTRACTOR will provide to CITY such information and other cooperation regarding performance of the Services as would be reasonably necessary for CITY or a Third Party to prepare an informed option analysis for such services.
- b. CONTRACTOR acknowledges that, in the event it breaches (or attempts or threatens to breach) its obligation to provide Disengagement Services upon expiration of the Agreement as provided in Section 16.3.a, CITY will be irreparably harmed. In such a circumstance, CITY may proceed directly to court. If a court of competent jurisdiction should find that CONTRACTOR has breached (or attempted or threatened to breach) any such obligations, CONTRACTOR agrees that, without any additional findings of irreparable injury or other conditions to injunctive relief (including the posting of bond), it will not oppose the entry of an appropriate order compelling performance by CONTRACTOR and restraining it from any further breaches (or attempted or threatened breaches).
- c. If CITY elects to allow the Agreement to expire, CONTRACTOR will cooperate with CITY in accordance with Section 16.2 Disengagement Process.

17.0 LIMITATION OF LIABILITY

With regard to professional negligence, it is agreed that CONTRACTOR's liability will not exceed \$20,000,000 while the Agreement remains in full force and effect. CONTRACTOR will not be liable to CITY in the event of CITY's, its employees and its director's gross negligence, willful misconduct or violation of any laws and regulations. In no event will either party be liable to the other for any special or consequential damages. Notwithstanding the foregoing, and notwithstanding any other provision of this Agreement to the contrary, no limitation of liability or limitation of warranty or disclaimer shall be applicable to CONTRACTOR's breach of its obligations under Exhibit A - Standard Provisions for City Contracts, or to a party's breach of its obligations under Section 10 – Performance Penalty and/or Exhibit C - Business Associate Agreement, it being the intent of the respective Parties that the breaching party remain fully liable therefore.

18.0 STANDARD PROVISIONS

With the exceptions of PSCs 9, 16 and 23, the CONTRACTOR shall comply with the applicable requirements of the Standard Provisions for City Contracts (Rev. 1/25) [v.2], attached hereto and incorporated herein as Exhibit A.

19.0 DISCLOSURE OF BORDER WALL CONTRACTING ORDINANCE

Unless otherwise exempt in accordance with the provisions of this Ordinance, this Agreement is subject to the Disclosure of Border Wall Contracting Ordinance, Section 10.50 of the Los Angeles Administrative Code, as may be amended from time to time. Contractor certifies that it has complied with the applicable provisions of this Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Agreement.

20.0 ENTIRE AGREEMENT

This Agreement, and any attachments or documents incorporated herein by inclusion or reference, constitutes the full and complete Agreement between the Parties and supersedes any prior representation, understandings, communications, commitments, agreements, or proposals, oral or written. Any changes to this Agreement shall be in a written amendment, signed by the duly authorized representatives of both Parties. No verbal agreement or conversation with any officer or employee of either Party shall affect or modify any of the terms and conditions of this Agreement. The Parties acknowledge that they have read and understand the Agreement and had an opportunity to consult with counsel of their choosing. Neither Party shall be deemed the drafter of this Agreement. Ambiguities, if any, in this Agreement shall not be construed against any Party merely because this Agreement or any of its provisions have been prepared by a particular Party.

21.0 ORDER OF PRECEDENCE

This Agreement, and any attachments, exhibits or documents incorporated herein by inclusion or reference, constitutes the complete and entire Agreement between the City

and Contractor. In the event of any inconsistency between the body of this Agreement and attachments or exhibits, the order of precedence will be as follows:

1. Fourth Amended and Restated Agreement No. C-118005
2. Exhibit A - Standard Provisions for City Contracts (Rev. 1/25 [v.2])
3. Restatement and Third Amendment to Agreement C-118005
4. Restatement and Second Amendment to Agreement C-118005
5. Restatement and First Amendment to Agreement C-118005
6. Original Agreement
7. Exhibit B - Fee Schedule
8. Exhibit C - Business Associate Agreement
9. Exhibit D - Confidentiality Agreement

22.0 COUNTERPARTS/ELECTRONIC SIGNATURES

This Agreement may be executed in one or more counterparts, and by the Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The Parties further agree that facsimile signatures or signatures scanned into .pdf (or signatures in another electronic format designated by City) and sent by e-mail shall be deemed original signatures. This Agreement includes forty-two (42) pages and four (4) Exhibits.

[Signature page follows]

IN WITNESS THEREOF, the Parties hereto have caused this Fourth Amended and Restated Agreement to be executed by their duly authorized representatives.

**THE CITY OF LOS ANGELES,
A Municipal Corporation**

**DIGITECH COMPUTER LLC,
A Delaware Company**

By signing below, the signatory attests that they have no personal, financial, beneficial or familial interest in this contract.

By: _____
JAIME E. MOORE
Fire Chief
Los Angeles Fire Department

By: _____
WALTER PICKETT II
Chief Executive Officer

Date: _____

Date: _____

**APPROVED AS TO FORM:
HYDEE FELDSTEIN SOTO, City Attorney**

By: _____
SHAWN SAYLOR
Chief Financial Officer

By: _____
SAMUEL W. PETTY
Deputy City Attorney

Date: _____

**ATTEST:
PATRICE Y. LATTIMORE, City Clerk**

By: _____
Deputy City Clerk

Date: _____

Agreement No. C-118005-4 RA-1

*Approved signature methods for California corporations:

A. Two signatures: one the Chairman of the Board of Directors, President, or Vice President, and one of the Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer. The signature of a single individual holding offices in each category is also acceptable.

Or

B. One signature of a corporate-designated individual together with a properly attested resolution of the Board of Directors or copy of the Bylaws authorizing the individual to sign.

EXHIBIT A

STANDARD PROVISIONS FOR CITY CONTRACTS
(Rev. 1/25 [v.2])

STANDARD PROVISIONS FOR CITY CONTRACTS

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. Construction of Provisions and Titles Herein

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions of this Contract. The language of this Contract shall be construed according to its fair meaning and not strictly for or against **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" includes the party or parties identified in this Contract. The singular shall include the plural and if there is more than one **CONTRACTOR**, unless expressly stated otherwise, their obligations and liabilities shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

PSC-2. Applicable Law, Interpretation and Enforcement

Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, or procedures that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any federal, state or local law or regulation, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

PSC-3. Time of Effectiveness

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR**;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

PSC-4. Integrated Contract

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter of this Contract, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in the provisions of PSC-5 hereof.

PSC-5. Amendment

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-3.

PSC-6. Excusable Delays

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's Subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of **CONTRACTOR** shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both **CONTRACTOR** and Subcontractor, and without any fault or negligence of either of them. In such case, **CONTRACTOR** shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **CONTRACTOR** to perform timely. As used in this Contract, the term "Subcontractor" means a subcontractor at any tier.

In the event **CONTRACTOR'S** delay or failure to perform arises out of a Force Majeure Event, **CONTRACTOR** agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

PSC-7. Waiver

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

PSC-8. Suspension

At **CITY'S** sole discretion, **CITY** may suspend any or all services provided under this Contract by providing **CONTRACTOR** with written notice of suspension. Upon receipt of the notice of suspension, **CONTRACTOR** shall immediately cease the services

suspended and shall not incur any additional obligations, costs or expenses to **CITY** until **CITY** gives written notice to recommence the services.

PSC-9. Termination

A. Termination for Convenience

CITY may terminate this Contract for **CITY'S** convenience at any time by providing **CONTRACTOR** thirty days written notice. Upon receipt of the notice of termination, **CONTRACTOR** shall immediately take action not to incur any additional obligations, costs or expenses, except as may be necessary to terminate its activities. **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to effect the termination. Thereafter, **CONTRACTOR** shall have no further claims against **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights **CITY** is entitled to, shall become **CITY** property upon the date of the termination. **CONTRACTOR** agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

B. Termination for Breach of Contract

1. Except as provided in PSC-6, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, **CITY** may give **CONTRACTOR** written notice of the default. **CITY'S** default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of **CITY**. Additionally, **CITY'S** default notice may offer **CONTRACTOR** an opportunity to provide **CITY** with a plan to cure the default, which shall be submitted to **CITY** within the time period allowed by **CITY**. At **CITY'S** sole discretion, **CITY** may accept or reject **CONTRACTOR'S** plan. If the default cannot be cured or if **CONTRACTOR** fails to cure within the period allowed by **CITY**, then **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If the default under this Contract is due to **CONTRACTOR'S** failure to maintain the insurance required under this Contract, **CONTRACTOR** shall immediately: (1) suspend performance of any services under this Contract for which insurance was required; and (2) notify its employees and Subcontractors of the loss of insurance coverage and Contractor's obligation to suspend performance of services. **CONTRACTOR** shall not recommence performance until **CONTRACTOR** is fully insured and in compliance with **CITY'S** requirements.

3. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then **CITY** may immediately terminate this Contract.
4. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates **CITY'S** laws, regulations or policies relating to lobbying, then **CITY** may immediately terminate this Contract.
5. Acts of Moral Turpitude
 - a. **CONTRACTOR** shall immediately notify **CITY** if **CONTRACTOR** or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").
 - b. If **CONTRACTOR** or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, an Act of Moral Turpitude, **CITY** may immediately terminate this Contract.
 - c. If **CONTRACTOR** or a Key Person is charged with or indicted for an Act of Moral Turpitude, **CITY** may terminate this Contract after providing **CONTRACTOR** an opportunity to present evidence of **CONTRACTOR'S** ability to perform under the terms of this Contract.
 - d. Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elderly abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.

- e. For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this Contract, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of **CONTRACTOR**.
 6. In the event **CITY** terminates this Contract as provided in this section, **CITY** may procure, upon such terms and in the manner as **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to **CITY** for all of its costs and damages, including, but not limited to, any excess costs for such services.
 7. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-9(A) Termination for Convenience.
 8. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- C. In the event that this Contract is terminated, **CONTRACTOR** shall immediately notify all employees and Subcontractors, and shall notify in writing all other parties contracted with under the terms of this Contract within five working days of the termination.

PSC-10. Independent Contractor

CONTRACTOR is an independent contractor and not an agent or employee of **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of **CITY**.

PSC-11. Contractor's Personnel

Unless otherwise approved by **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. **CITY** has the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** shall remove personnel from performing work under this Contract if requested to do so by **CITY**.

CONTRACTOR shall not use Subcontractors to assist in performance of this Contract without the prior written approval of **CITY**. If **CITY** permits the use of Subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of this Contract and paying all Subcontractors. **CITY** has the right to approve **CONTRACTOR'S** Subcontractors, and **CITY** reserves the right to request replacement of any

Subcontractor. **CITY** does not have any obligation to pay **CONTRACTOR'S** Subcontractors, and nothing herein creates any privity of contract between **CITY** and any Subcontractor.

PSC-12. Assignment and Delegation

CONTRACTOR may not, unless it has first obtained the written permission of **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

PSC-13. Permits

CONTRACTOR and its directors, officers, partners, agents, employees, and Subcontractors, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance of this Contract. **CONTRACTOR** shall immediately notify **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to **CONTRACTOR'S** performance of this Contract.

PSC-14. Claims for Labor and Materials

CONTRACTOR shall promptly pay when due all amounts owed for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), and shall pay all amounts due under the Unemployment Insurance Act or any other applicable law with respect to labor used to perform under this Contract.

PSC-15. Current Los Angeles City Business Tax Registration Certificate Required

For the duration of this Contract, **CONTRACTOR** shall maintain valid Business Tax Registration Certificate(s) as required by **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

PSC-16. Retention of Records, Audit and Reports

CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form or as otherwise approved by **CITY**. These records shall be retained for a period of no less than three years from the later of the following: (1) final payment made by **CITY**, (2) the expiration of this Contract or (3) termination of this Contract. The records will be subject to examination and audit by authorized **CITY** personnel or **CITY'S** representatives at any time. **CONTRACTOR** shall provide any reports requested by **CITY** regarding

performance of this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, **CONTRACTOR** may, upon **CITY'S** written approval, submit the required information to **CITY** in an electronic format, e.g. USB flash drive, at the expiration or termination of this Contract.

PSC-17. Bonds

All bonds required by **CITY** shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Los Angeles Administrative Code ("LAAC") Sections 11.47 *et seq.*, as amended from time to time.

PSC-18. Indemnification

Except for the active negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by **CONTRACTOR**, Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-19. Intellectual Property Indemnification

CONTRACTOR, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its Subcontractors, in performing the work under this Contract; or (2) as a result of **CITY'S** actual or intended use of any Work Product (as defined in PSC-21) furnished by **CONTRACTOR**, or its Subcontractors, under this Contract. The rights and remedies of **CITY** provided in this section shall not be exclusive

and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-20. Intellectual Property Warranty

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information.

PSC-21. Ownership and License

Unless otherwise provided for herein, all finished and unfinished works, tangible or not, created under this Contract including, without limitation, documents, materials, data, reports, manuals, specifications, artwork, drawings, sketches, blueprints, studies, memoranda, computation sheets, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas, matters and combinations thereof, and all forms of intellectual property originated and prepared by **CONTRACTOR** or its Subcontractors under this Contract (each a "Work Product"; collectively "Work Products") shall be and remain the exclusive property of **CITY** for its use in any manner **CITY** deems appropriate. **CONTRACTOR** hereby assigns to **CITY** all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

CONTRACTOR agrees that a monetary remedy for breach of this Contract may be inadequate, impracticable, or difficult to prove and that a breach may cause **CITY** irreparable harm. **CITY** may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude **CITY** from seeking or obtaining any other relief to which **CITY** may be entitled.

For all Work Products delivered to **CITY** that are not originated or prepared by **CONTRACTOR** or its Subcontractors under this Contract, **CONTRACTOR** shall secure a grant, at no cost to **CITY**, for a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

CONTRACTOR shall not provide or disclose any Work Product to any third party without prior written consent of **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract shall include this provision to contractually bind its Subcontractors performing work under this Contract such that **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein.