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STATE OF FLORIDA

DIVISION OF EMERGENCY MANAGEMENT

Contract Number:_____ G0069 _____

Agency Reference:_____ 20-AT-0000-97-00-G0069 ___

ITB#:_____ ITB-DEM-19-20-026 _____

CONTRACT

THIS AGREEMENT is entered into by and between the State of Florida, Division of Emergency Management, (hereinafter, "Division"), and <u>ESi Acquisition, Inc.</u> (hereinafter, "Contractor"), an entity duly authorized to conduct business in the State of Florida. In consideration of the mutual promises contained in this Agreement (the terms "Agreement" and "Contract" are used interchangeably herein), the parties agree as follows:

1. <u>PURPOSE OF THE AGREEMENT</u>

    A. The purpose of this Agreement is to provide products and/or services as described in the Scope of Work attached hereto as Exhibit "A" and made part hereof.

    B. No work shall commence until both parties have signed the Agreement.

    C. Order of Precedence. The following exhibits, including the entirety of Invitation to Bid# ITB-DEM-19-20-026, are incorporated into and made a part of this Agreement. In the event of a conflict in terms or provisions of these exhibits or between any of the components of this Agreement, the order of precedence for resolving such conflict shall be as follows with 1) being the highest:

        1) The express terms of this Agreement, minus Exhibits;
        2) Invitation to Bid# ITB-DEM-19-20-026;
        3) Additional Contract Terms and Conditions ("Special Conditions"), if any, Modifying Florida PUR 1000 General Contract Conditions;
        4) State of Florida PUR 1000 General Contract Conditions;
        5) Exhibit A - "Scope of Work";
        6) Exhibit B - "Price Sheet";
        7) Exhibit C – WebEOC Subscription Agreement
        8) Exhibit D – WebEOC End User License Agreement
        9) Addenda, in reverse order of issuance.

2. <u>TERM</u>

    A. The term shall begin upon execution of the Agreement by both parties and, unless terminated earlier in accordance with the provisions of section 8 of this Agreement, shall end three (3) years from the date of execution.

    B. If the parties relied upon a State Term Contract in order to enter into this Agreement, then: (1) any renewal or extension shall not exceed the expiration of the underlying State Term

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Contract by more than twelve (12) months; and, (2) no renewal or extension shall occur if the underlying State Term Contract expires prior to the effective date of any renewal or extension.

C. In accordance with section 287.057(13), Florida Statutes, and subject to the limitations outlined above in subparagraph 2.B. of this Agreement, the Division and the Contractor may renew this Agreement, in whole or in part, for a period that may not exceed three (3) years or the term of this Agreement, whichever is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. Additionally, any renewal: must be in writing and signed by both parties; is contingent upon satisfactory performance evaluations; and, is subject to availability of funds.

3. PERFORMANCE

A. Time is of the essence with regard to each and every obligation of the Contractor. Each such obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

B. The Contractor shall immediately notify the Division in writing if its ability to perform is compromised in any manner during the term of this Agreement.

C. The Contractor agrees to perform all tasks and provide deliverables as set forth in the Scope of Work and all contractual documents attached to this Agreement. The Division shall be entitled at all times to be advised, at its request, as to the status of work being done by the Contractor and of the details thereof. Coordination shall be maintained by the Contractor with representatives of the Division, or of other agencies interested in the project on behalf of the Division.

D. If the Division determines that the performance of the Contractor is unsatisfactory, the Division will notify the Contractor of the deficiency to be corrected, which correction shall be made within a timeframe specified by the Division. The Contractor shall, within the time specified in the contractual documents after notice from the Division, provide the Division with a corrective action plan describing how the Contractor will address all issues of contract non-performance, unacceptable performance, and failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Division, the Contractor will be assessed a non-performance retainage equivalent to 10% of the total invoice amount or as specified in the contractual documents. The retainage will be applied to the invoice for the then-current billing period. The retainage will be withheld until the Contractor resolves the deficiency. If the deficiency is subsequently resolved, the Contractor may bill the Division for the retained amount during the next billing period. If the Contractor is unable to resolve the deficiency, the funds retained may be forfeited at the end of the agreement period.

E. The Division reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of the Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

F. Unless otherwise prohibited by law, the Division may require the Contractor to furnish, without additional cost to the Division, a performance bond or irrevocable letter of credit or other form of security for the satisfactory performance of work hereunder. The Division shall determine the type and amount of security.

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G. Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.

H. If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, then the Contractor shall immediately notify the Division in writing, indicating the specific restriction. The Division reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Division.

I. Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers; additionally, no extra charges shall be applied for boxing, crating, packing, or insurance. All containers and packaging shall become and remain the Division's property. All purchases are F.O.B. destination, transportation charges prepaid. A complete packing list must accompany each shipment. Transportation of goods shall be F.O.B Destination to any point within thirty (30) days after the Division places an Order. The Division assumes no liability for merchandise shipped to other than the specified destination. Items received in excess of quantities specified may, at the Division's option, be returned at the Contractor's expense. Substitutions are not permitted. The Contractor, within five (5) days after receiving a purchase order, shall notify the Division of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.

J. Matters of inspection and acceptance are addressed in section 215.422, Florida Statutes. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Division shall: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and, provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When the Division rejects a product, the Contractor shall remove it from the premises within ten days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the Contractor. Rejected product not removed by the Contractor within ten days shall be deemed abandoned by the Contractor, and the Division shall have the right to dispose of it as its own property. The Contractor shall reimburse the Division for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

K. Where installation is required, the Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated in this Agreement. The Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. The Contractor shall protect the site from damage and shall repair damages or injury caused during installation by the Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. The Contractor shall perform installation work so as to cause the least inconvenience and interference with the

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Division and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

L. As applicable, the Contractor shall comply with all state and Federal rules and regulations applicable to the Contractor when performing under this Agreement. The Contractor shall comply with all Federal Emergency Management Agency (FEMA) rules and regulations applicable to services rendered under this Agreement

4. <u>COMPENSATION AND PAYMENT</u>

A. The total funding amount of this Agreement for the purchase of commodities or the performance of services as described in Exhibit "A" of this agreement is shown in Exhibit "B".

B. As required by section 287.0582, Florida Statutes, if this Agreement binds the Division for the purchase of services or tangible personal property for a period in excess of one fiscal year, "The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature."

C. The parties acknowledge that Agency payments required pursuant to the terms of this Agreement are subject to and contingent upon the review and approval of the Chief Financial Officer pursuant to his authority as set forth in Article IV, Section 4 of the Florida Constitution ("The chief financial officer shall serve as the chief fiscal officer of the state, and shall settle and approve accounts against the state, and shall keep all state funds and securities.") as well as section 17.03, Florida Statutes ("The Chief Financial Officer of this state, using generally accepted auditing procedures for testing or sampling, shall examine, audit, and settle all accounts, claims, and demands, whatsoever, against the state, arising under any law or resolution of the Legislature, and issue a warrant directing the payment out of the State Treasury of such amount as he or she allows thereon.").

D. Travel expenses are not reimbursable unless specifically authorized in writing, and shall be reimbursed only in accordance with section 112.061, Florida Statutes.

E. The Contractor will be paid upon submission of properly certified invoice(s) to the Division after delivery and acceptance of commodities or services is confirmed in writing by the Division. Invoices shall contain detail sufficient for a proper pre-audit and post audit thereof and shall contain any Purchase Order and the Vendor's Federal Employer Identification Number or Social Security Number.

F. No payment requirements shall start until a properly completed invoice is provided to the Division, inspected, <u>and</u> approved. Invoices that must be returned to the Contractor due to preparation errors will result in a delay in payment.

G. The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages; all such personal property taxes or taxes levied on employees' wages will be borne by the Contractor.

H. The Contractors providing goods and services to the Division should be aware of the following time frames:

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1) Pursuant to section 215.422(1), Florida Statutes, an invoice submitted to the Division shall be recorded in the financial systems of the State, approved for payment by the Division, and filed with the Chief Financial Officer not later than twenty (20) days after receipt of the invoice and receipt, inspection, and approval of the goods or services, except that in the case of a bona fide dispute the invoice recorded in the financial systems of the State shall contain a statement of the dispute and authorize payment only in the amount not disputed.

2) Notwithstanding the 20-day requirement above, the five (5) working day requirement, set forth in section 215.422(1), Florida Statutes, to inspect and approve goods or services rendered under this Agreement shall not apply. The Division will make a good faith effort to abide by the five (5) working day requirement but shall not penalized if the inspection and approval take more than five (5) working days. Items may be tested for compliance with specifications. Items delivered not conforming to specifications may be rejected and returned at the Contractor's expense. Any resulting increase in cost will be charged against the Contractor.

3) Pursuant to section 215.422(3)(b), Florida Statutes, the Division shall issue payment to the Contractor within forty (40) days after the invoice has been received, inspected, and approved. Failure to issue the warrant within forty (40) days may result in the Division paying interest at the rate established under section 55.03(1), Florida Statutes. The Division shall not be held to the five (5) working day inspection and approval requirement in section 215.442(1), Florida Statutes.

I. Transaction Fee. The State of Florida, through the Department of Management Services (DMS), has instituted MyFloridaMarketPlace, a statewide eProcurement system. Pursuant to subsection 287.057 (22), Florida Statutes, all payments shall be assessed a transaction fee of seven-tenths of one percent (0.7%), which the Contractors shall pay to the State. On- line filing is available at http://dms.myflorida.com/mfmp. For payments within the State accounting system (FLAIR or its successor), the transaction fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall self-report and pay the transaction fee pursuant to rule 60A-1.031 (2), Florida Administrative Code. By submission of these reports and corresponding payments, the Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee. The Contractor shall receive a credit for any transaction fee paid by the Contractor for the purpose of any item(s) if such item(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a transaction fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor's failure to perform or comply with specifications or requirements of this Agreement. Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering reprocurement costs from the Contractor in addition to all outstanding fees. A CONTRACTOR'S DELINQUENCY IN PAYING TRANSACTION FEES MAY RESULT IN BEING EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.

J. The Contractor shall report and pay the transaction fee on a quarterly calendar basis using the Department of Management Service's Form PUR 3776, which is incorporated by reference. Any misrepresentation shall be punishable under law, including but not limited to: Chapter 817, Florida Statutes.

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K. The Contractor may call (850) 413-7269 Monday through Friday to inquire about the status of payments by State Agencies. The Division is responsible for all payments under the Agreement. The Division's failure to pay, or delay in payment, shall not constitute a breach of the Agreement and shall not relieve the Contractor of its obligations to the Division.

L. A Vendor Ombudsman, whose duties include acting as an advocate for Vendors who may be experiencing problems in obtaining timely payment(s) from an Agency may be contacted at 850-413-5516 or by calling the State Comptroller's Hotline, 1-800-848-3792.

M. The Division, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Division shall require a statement from the Chief Financial Officer of the Division that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executed only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years.

N. All refunds or repayments due to the Division under this Agreement shall be made payable to the order of the "Division of Emergency Management" and mailed directly to the attention of: **Cashier, Division Finance, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399**. The Contractor shall also notify the Division Program Manager (identified in section 13. A.) that it has issued a refund to the Division.

5. <u>RESERVED</u>

6. <u>RESERVED</u>

7. <u>INDEMNITY AND PAYMENT FOR CLAIMS</u>

A. INDEMNITY. The Contractor shall be fully liable for the actions of its agents, employees, partners, assignees, or subcontractors and shall fully indemnify, defend, and hold harmless the State and the Division, and their officers, agents, and employees, from suits, actions, damages, and costs, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by the Contractor, its agents, employees, partners, or subcontractors; provided, however, the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or the Division.

Further, the Contractor shall fully indemnify, defend, and hold harmless the State from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right; provided, however, that the foregoing obligation shall not apply to the Division's misuse or modification of the Contractor's products or the Division's operation or use of the Contractor's products in a manner not contemplated by the Agreement. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense procure for the Division the right to continue using the product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure for the Division the right to continue using the product, the Contractor shall remove the product, and refund to

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the Division the amounts paid in excess of a reasonable rental for past use. The Division shall not be liable for any royalties.

The Contractor's obligations under the preceding paragraphs with respect to any legal action are contingent upon the State giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the Division in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

Any Contractor which is a State agency or subdivision, as defined in section 768.28, Florida Statutes, agrees to be fully responsible for its negligent or tortuous acts or omissions which result in claims or suits against the Division, and agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by any Contractor to which sovereign immunity applies.

Nothing herein shall be construed as consent by a State agency or subcontractor of the State of Florida to be sued by third parties in any matter arising out of any contract.

B. LIMITATION OF LIABILITY. For all claims against the Contractor under this Agreement, and regardless of the basis on which the claim is made, the Contractor's liability under this Agreement for direct damages shall be limited to the greater of $1,000,000, the dollar amount of the Agreement, the dollar amount of the purchase order(s) issued to Contractor under this Agreement, or two times the charges rendered by the Contractor under any purchase order(s) issued under this Agreement. This limitation shall not apply to claims arising under the Indemnity paragraph contained in this Agreement.

Unless otherwise specifically enumerated in this Agreement or resulting purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Division may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

C. PAYMENT OF CLAIMS. The Contractor guaranties the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Contractor or any subcontractor, in connection with the Agreement.

D. LIABILITY INSURANCE. The Contractor shall carry and keep in force during the term of this Agreement a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least $150,000.00 per person and $300,000.00 each occurrence, and property damage insurance of at least $150,000.00 each occurrence, for the services to be rendered in accordance with this Agreement.

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Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor liability and obligations under the Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

E. WORKERS COMPENSATION. The Contractor shall maintain Workers' Compensation insurance as required under the Florida Workers' Compensation Law.

8. COMPLIANCE WITH LAWS:

A. The laws of the State of Florida shall govern this Agreement. The Division and the Contractor submit to the jurisdiction of the courts of the State of Florida exclusively for any legal action related to this Agreement. Further, the Contractor hereby waives any and all privileges and rights relating to venue it may have under Chapter 47, Florida Statutes, and any and all such venue privileges and rights it may have under any other statute, rule, or case law, including, but not limited to those grounded on convenience. The Contractor hereby submits to venue in the county chosen by the Division, to wit: Leon County, Florida.

B. The Contractor must be registered with the Florida Department of State, Division of Corporations. Online-filing is available at: http.//www.sunbiz.org.

C. The Contractor shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Contractor in conjunction with this Agreement. In accordance with section 119.0701(2), Florida Statutes, a vendor providing contractual services and acting on behalf of the Division must:

1) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.

2) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

4) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (850) 815-4156,

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Records@em.myflorida.com, or 2555 Shumard Oak Boulevard, Tallahassee, FL 32399.

D. Pursuant to section 287.058(1)(c), Florida Statutes, the Division may unilaterally cancel a contract if the vendor refuses to allow public access to all non-exempt documents, papers, letters, or other material made or received by the contractor in conjunction with the contract.

E. The Contractor agrees that it shall make no statements, press releases, or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying the Division's Contract Manager or the Division's designated contact person and securing prior written consent. The Contractor shall maintain confidentiality of all confidential data, files, and records related to the services and/or commodities provided pursuant to this Agreement and shall comply with all state and federal laws, including, but not limited to sections 381.004, 384.29, 392.65, and 456.057, Florida Statutes. The Contractor's confidentiality procedures shall be consistent with the most recent version of the Division's security policies, protocols, and procedures. The Contractor shall also comply with any applicable professional standards with respect to confidentiality of information.

F. The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor shall comply with Section 247A of the Immigration and Nationality Act, the Americans with Disabilities Act, Health Insurance Portability and Accountability Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Pursuant to Section 287.058(1), Florida Statutes, the provisions of section 287.058(1)(a)-(c), and (i), Florida Statutes, are hereby incorporated by reference, to the extent applicable.

G. The Contractor should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.

H. All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.

I. If regulated by the Florida Department of Business and Professional Regulation, the Contractor and its employees shall be bound by the standard of conduct provided in applicable Florida Statutes and applicable rules of the Board of Business and Professional Regulation as they relate to work performed under this Agreement. The Contractor further

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covenants and agrees that when a former State employee is employed by the Contractor, the Contractor will require strict adherence by a former State employee to section(s) 112.313 and 112.3185, Florida Statutes, as a condition of employment for said former State employee. These statutes will by reference be made a part of this Agreement as though set forth in full. The Contractor agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter for the work performed under this Agreement.

J. A person or affiliate who has been placed on the convicted Contractor list following a conviction for a public entity crime may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity, may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals or replies on leases of real property to a public entity, may not be awarded or perform work as a Contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months following the date of being placed on the convicted Contractor list.

K. An entity or affiliate who has been placed on the discriminatory Vendor list may not submit a bid, proposal or reply on a contract to provide any goods or service to a public entity, may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals or replies on leases of real property to a public entity, may not be awarded or perform work as a Vendor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

L. The Division shall verify the Contractor and any subcontractor's against the Federal Excluded Parties List System to ensure the Contractor or subcontractor is not disbarred or excluded from receiving Federal contracts.

M. The Contractor shall E-Verify the employment status of all employees and subcontractors to the extent permitted by federal law and regulation. The Division shall consider the employment by any Contractor of unauthorized aliens a violation of section 274A (e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. Furthermore, the Contractor agrees to utilize the U.S. Agency of Homeland Security's E-Verify system, https://e-verify.uscis.gov/emp, to verify the employment eligibility of all new employees hired during the term of this Agreement for the services specified in this Agreement. The Contractor shall also include a requirement in subcontracts that the subcontractor shall utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Agreement.

N. Pursuant to section 216.347, Florida Statutes, the Contractor shall not expend any State funds for the purpose of lobbying the State Legislature, the Judiciary, or an Agency.

O. In accordance with section 20.055(5), Florida Statues, the Contractor shall cooperate fully with the Inspector General in any investigation, audit, inspection, review, or hearing conducted pursuant to the Inspector General's statutory authority. Additionally, upon request of the Inspector General or any other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's

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business or financial records, documents, or files of any type or form that refer to or relate to this Agreement. The Contractor shall retain such records for the longer of: (1) three years after the expiration of the Purchase Order; or, (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: http://dos.myflorida.com/library-archives/records-management/general-records-schedules/). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

P. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

Q. The Division may, at its option, terminate the Contract if the Contractor is found to have submitted a false certification as provided under section 287.135(5), Florida Statute, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

R. Pursuant to section 287.05805, if state funds are being used for the purchase of or improvements to real property pursuant to the terms of this Agreement, the state funds are contingent upon the Contractor or political subdivision granting to the state a security interest in the property at least to the amount of state funds provided for at least five (5) years from the date of purchase or the completion of the improvements or as further required by law.

9. COPYRIGHT, PATENT AND TRADEMARK

EXCEPT AS PROVIDED BELOW, ANY AND ALL PATENT RIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY RESERVED TO THE STATE OF FLORIDA; AND, ANY AND ALL COPYRIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY TRANSFERRED BY THE SUB-RECIPIENT TO THE STATE OF FLORIDA.

A. All plans, specifications, computer files, and reports prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived from them shall be the exclusive property of the Division without restriction or limitation on their use and shall be made available, upon request, to the Division at any time during the performance of such services and/or upon completion or termination of this Agreement.

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B. The Contractor shall not copyright any material and products or patent any invention developed under this Agreement. Any and all patent rights and any and all copyright accruing under or in connection with the performance of this Agreement are hereby reserved to the State of Florida. If the Contractor brings to the performance of this Agreement a pre-existing patent or copyright or other intellectual property right, the Contractor shall retain all rights and entitlements to that pre-existing patent or copyright or other intellectual property right.

C. If any discovery or invention arises or is developed in the course of or as a result of work or services performed under this Agreement, or in any way connected with this Agreement, the Contractor shall refer the discovery or invention to the Division for a determination whether patent protection will be sought in the name of the State of Florida. Any and all patent rights accruing under or in connection with the performance of this Agreement are reserved to the State of Florida. If any books, manuals, films, or other copyrightable material are produced, the Contractor shall notify the Division. Any and all copyrights accruing under or in connection with the performance under this Agreement are transferred by the Contractor to the State of Florida.

D. Within thirty days (30) of execution of this Agreement, the Contractor shall disclose all intellectual properties relevant to the performance of this Agreement which he or she knows or should know could give rise to a patent or copyright. The Contractor shall retain all rights and entitlements to any pre-existing intellectual property which is disclosed. Failure to disclose will indicate that no such property exists. The Division shall then, under subsection C, have the right to all patents and copyrights which occur during performance of the Agreement. As of the Effective Date of this Agreement, Contractor hereby discloses that all of the items identified in Attachment C are subject to copyrights and potentially subject to U.S. Patent No. 8527295 and/or 8428961.

10. SUSPENSION OF WORK AND TERMINATION OF THE AGREEMENT

A. SUSPENSION. The Division may in its sole discretion suspend any or all activities under this Agreement, at any time, when in the best interests of the State to do so. The Division shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to: budgetary constraints; declaration of emergency; or, other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety (90) days, or any longer period agreed to by the Contractor, the Division shall either:
(1) issue a notice authorizing resumption of work, at which time activity shall resume; or, (2) terminate the Agreement. Suspension of work shall not entitle the Contractor to any additional compensation.

B. TERMINATION FOR CONVENIENCE. This Agreement may be terminated by the Division in whole or in part at any time in the best interest of the Division. The Contractor shall not furnish any product after it receives the notice of termination (whether for convenience or for cause), except as necessary to complete the continued portion of the Contract, if any. If this Agreement is terminated before performance is completed, then the Contractor shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the agreement price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress shall become the property of the Division and shall be turned over promptly by the Contractor. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

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C. TERMINATION FOR CAUSE. The Division may terminate the Agreement if the Contractor fails to: (1) deliver the product within the time specified in the Agreement or any extension; (2) maintain adequate progress, thus endangering performance of the Agreement; (3) honor any term of the Agreement; (4) timely cure a default; or, (5) abide by any statutory, regulatory, or licensing requirement (Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default). The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Agreement arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Division. The rights and remedies of the Division in this clause are in addition to any other rights and remedies provided by law or under the Contract.

11. REMEDIES

A. Any dispute concerning performance of this Agreement shall be decided by the Division's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within twenty-one (21) days from the date of receipt, the Contractor files with the Division a petition for administrative hearing. The Division's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120, Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

B. In the event the Contractor fails to satisfactorily perform or has failed to adhere to the terms and conditions under this Agreement, the Division shall, upon fifteen (15) calendar days written notice to the Contractor and upon the Contractor's failure to cure within those fifteen (15) calendar days, exercise any one or more of the following remedies, either concurrently or consecutively:

1) Withhold or suspend payment of all or any part of a request for payment.

2) Require that the Contractor refund to the Division any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds.

3) Exercise any corrective or remedial actions, to include but not be limited to:

a) Requesting additional information from the Contractor to determine the reasons for or the extent of non-compliance or lack of performance;

b) Issuing a written warning to advise that more serious measures may be taken if the situation is not corrected;

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c) Advising the Contractor to suspend, discontinue or refrain from incurring costs for any activities in question; or,

d) Requiring the Contractor to reimburse the Division for the amount of costs incurred for any items determined to be ineligible.

C. Pursuing any of the above remedies will not keep the Division from pursuing any other rights or remedies which may be otherwise available under law or in equity. If the Division waives any right or remedy in this Agreement or fails to insist on strict performance by the Contractor, it will not affect, extend or waive any other right or remedy of the Division, or affect the later exercise of the same right or remedy by the Division for any other default by the Contractor.

The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida. Therefore, the Contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with this Agreement.

12. RESERVED

13. EMPLOYEES, ASSIGNMENT, AND SUBCONTRACTS

A. INDEPENDENT CONTRACTOR. The Contractor and its employees, agents, representatives, assignees, and subcontractors are not employees or agents of the Division and are not entitled to the benefits of State of Florida employees. The Division shall not be bound by any acts or conduct of the Contractor or its employees, agents, representatives, assignees, or subcontractors. The Contractor agrees to include this provision in all of its subcontracts under this Agreement.

B. ALL EMPLOYEES, SUBCONTRACTORS, AND AGENTS. All Contractor employees, assignees, subcontractors, or agents performing work under this Agreement shall be properly trained technicians who meet or exceed any specified training qualifications and shall have all current licenses and permits required for all of the particular work for which they are hired by the Contractor. Upon request, the Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, assignees, subcontractors, or agents performing work under this Agreement must comply with all security and administrative requirements of the Division and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement. The State may conduct, and the Contractor shall cooperate in, a security background check or otherwise assess any employee, assignee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with the Division's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Agreement. The State may reject and bar from any facility for cause any of the Contractor's employees, assignees, subcontractors, or agents. The Division and the State shall take all actions necessary to ensure that Contractor's employees, assignees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, assignees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

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C. CONVICTED AND DISCRIMINATORY VENDORS. In accordance with sections 287.133 and 287.134, Florida Statutes, an entity or affiliate who is on the Convicted Vendor List or the Discriminatory Vendor List may not perform work as a contractor, supplier, sub- contractor, or consultant under this Agreement.

D. WARRANTY TO PERFORM. The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted or discriminatory vendor lists, or on any similar list maintained by any other state or the federal government.

E. ASSIGNMENT. The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under this Agreement without the prior written consent of the Division. In the event of any assignment, the Contractor remains secondarily liable for performance of this Agreement, unless the Division expressly waives such secondary liability. The Division may assign this Agreement with prior written notice to Contractor.

F. SUBCONTRACTS. The Vendor may subcontract any work under this Purchase Order. Subcontractors must be approved in writing. The Vendor is fully responsible for satisfactory completion of all subcontracted work.

14. MODIFICATION OF CONTRACT

This Agreement contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Division and the Contractor. This Agreement may only be modified or amended upon mutual written agreement of the Division and the Contractor. No oral agreements or representations shall be valid or binding upon the Division or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Division. The Contractor may not unilaterally modify the terms of this Agreement by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Division's acceptance of product or processing of documentation on forms furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

15. MONITORING

The Contractor agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Division or its agents, employees, or designee, including the Florida Chief Financial Officer, or Florida Auditor General. In the event the Division determines that a limited scope audit of the Contractor is appropriate, the Contractor agrees to comply with any additional instruction provided by the Division to the Contractor regarding such audit. The Contractor further agrees to comply and cooperate with any inspection reviews, investigation or audits deemed necessary by the Florida Chief Financial Officer or Florida Auditor General.

Records of costs incurred by the Contractor under terms of this Agreement shall be maintained by the Contractor and made available upon request to the Division at all times during the period

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of this Agreement. Copies of these documents and records shall be furnished to the Division upon request. Records of costs incurred shall include the Contractor's general accounting records and the project records, together with supporting documents and records of the Contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Division for a proper audit of project costs.

16. NOTICE AND CONTACT

A. Pursuant to section 287.057(14), Florida Statues, the Division's Contract Manager shall be responsible for enforcing performance of the contract terms and conditions and the Division's Contract Manager shall serve as liaison with the Contractor. Additionally, the Contract Manager for the Division shall (1) monitor and document Contractor performance; and, (2) review and document all deliverables for which the Contractor requests payment.

B. The Division's Contract Manager is___Colby Maxwell_____.

C. In the event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the name, title, and address of the new representative will be provided to the other party in writing via letter or electronic email.

D. All notices required under the Agreement shall be delivered to the following:

For DIVISION (Contract Manager)	For CONTRACTOR
Colby Maxwell	Attn: President/CEO
2555 Shumard Oak Boulevard	235 Peachtree Street NE, Suite 2300
Tallahassee, Florida 32399	Atlanta, GA 30303
Tel: 850 815 4709	Tel:
Email: Colby.maxwell@em.myflorida.com	Email:

17. MISCELLANEOUS

A. All services shall be performed by the Contractor to the satisfaction of the Division who shall decide all questions, difficulties and disputes of any nature that may arise under this Agreement, the prosecution and fulfillment of the services under it and the character, quality, and value thereof; and the decision upon all claims, questions and disputes shall be final and binding upon all parties hereto. Adjustments of compensation and contract time because of any major changes in the work that may become necessary or desirable as the work progresses shall be subject to mutual agreement of the parties, and Amendments(s) shall be entered into by the parties in accordance with the changes.

B. Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the Division at all times during the period of this Agreement and for five (5) years after completion of the work pursuant to this Agreement. Copies of these documents and records shall be furnished to the Division, its agents, employees or designee, including agents of other State agencies or the Federal government upon request. Records of costs incurred shall include the Contractor's general accounting records and the project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Division for a proper audit of project costs.

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C. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

D. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

E. This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto.

F. Should a court determine any provision of this Agreement is invalid, the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the provision held to be invalid.

G. If this Agreement is the result of a formal solicitation (Invitation to Bid, Request for Proposal or Invitation to Negotiate), the Department of Management Services Form(s) PUR 1000 and PUR 1001, included in the solicitation, are incorporated herein by reference and made part of the Agreement unless modified. If this Agreement is not the result of a formal solicitation, the Contractor is subject to the terms and conditions as outlined in Form PUR 1000 which, unless modified, are incorporated by reference and made part of this Agreement. Additional Contract Terms and Conditions ("Special Conditions") Modifying Florida PUR 1000 General Contract Conditions may also apply.

H. The Division may require the Contractor and its employees, agents, representatives and subcontractors to provide fingerprints and be subject to such background screen as determined by the Agency and conducted by the Florida Department of Law Enforcement or the Federal Bureau of Investigation. The cost of the background screen(s) shall be borne by the Contractor. The Division may require the Contractor to exclude the Contractor's employees, agents, representatives or subcontractors based on the background screening results.

I. The delay or failure by the Division to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Division's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

J. Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Division purchases are independent of the agreement between Division and the Contractor, and the Division shall not be a party to any transaction between the Contractor and any other purchaser.

As provided in section 287.042(16)(a), Florida Statutes, other state agencies may purchase from the resulting contract, provided that the Department of Management Services has determined that the contract's use is cost-effective and in the best interest of the State. Upon such approval, the Contractor may, at its discretion, sell these commodities or services to additional agencies, upon the terms and conditions contained herein.

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K. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

L. The Division may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of this Agreement. The Division may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Division may solicit separate bids to satisfy them.

M. Notice of Delay, and No Damages for Delay. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Division in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Division. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Division for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Division determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Division, in which case the Division may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Division with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

18. <u>CONTRACT TERMS REQUIRED BY FEDERAL LAW.</u>

A. Equal Employment Opportunity.   During the performance of this contract, the Contractor agrees as follows:

1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

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2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

B. Copeland "Anti-Kickback" Act

1) Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

2) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

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3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. § 5.12.

C. Contract Work Hours and Safety Standards. In accordance with 40 U.S.C. 3702 of the Act, the Contractor shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

D. Clean Air Act and the Federal Water Pollution Control Act. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

E. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

F. Suspension and Debarment.

1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

2) The Contractor and any subcontractors must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

3) This certification is a material representation of fact relied upon by the Division. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Division, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the

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period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

G. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non- Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

H. Depending on how the Contractor uses the funds under this Agreement, these other provisions in Appendix II to 2 C.F.R. Part 200 may apply. It is the responsibility of the Contractor to include the required provisions:

1) 2 C.F.R. § 200.322 Procurement of recovered materials.

2) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

3) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers on the day, month and year set forth above.

CONTRACTOR:
ESi Acquisition, Inc.

By: _____ 5/27/20
(Authorized Signature)   (Date)

NICHOLAS MEEKS
(Print/Type Name)

Title: CFO _____

DIVISION OF EMERGENCY MANAGEMENT

By: _____ 5.28.20
(Authorized Signature)   (Date)

KEVIN GUTHRIE
(Print/Type Name)

Title: DEPUTY DIRECTOR _____

Federal Tax ID# 58-2498832

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Additional Contract Terms and Conditions ("Special Conditions") Modifying Florida PUR 1000 General Contract Conditions

Pursuant to Rule 60A-1.002(7)(b), Florida Administrative Code, "The agency shall attach additional contract terms and conditions specific to each particular solicitation. These additional terms are commonly referred to as 'Special Conditions.' In the event of any conflict between the PUR 1000 form and any Special Conditions attached by the agency, the Special Conditions shall take precedence over the PUR 1000 form unless the conflicting term in the PUR form is required by any section of the Florida Statutes, in which case the term contained in PUR 1000 shall take precedence."

The following provisions of PUR 1000 shall not apply:

24. Force Majeure, Notice of Delay, and No Damages for Delay.

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CONTRACT # G0069
EXHIBIT A

Attachment A
Scope of Work
ITB-DEM-19-20-026 WebEOC

1.1 Statement of Purpose / Need

Florida Chapter 252 declares that Florida Division of Emergency Management (hereinafter referred to as the "Division" or "FDEM") shall maintain a comprehensive statewide program of emergency management. To support that mission, DEM requires a comprehensive Web based tool to facilitate statewide Emergency Management functions. The Division is seeking qualified vendors to provide the software, maintenance and professional services as listed on Attachment A – Price Sheet, based upon Contractor's WebEOC® Software platform.

1.2 Background

Using Contractor's WebEOC® Software platform, the Division administers a web-based EMIS adopted by the State of Florida for emergency management. The platform allows the State Emergency Response Team (SERT) to use the same operating environment when preparing for, responding to, and recovering from an emergency. Requests for assistance may be made through the platform; these requests are approved, tasked as Mission, and tracked throughout their life cycle. Information messages like situation reports, press releases, and incident action plans may also be shared through the platform. Essential Elements of Information are reported via the platform, and Contacts are also made available. Reports are available to export information from the service. Web services are available to allow external systems to communicate with the WebEOC Software. Having this information all in one place allows for effective response to and recovery from emergencies while documenting events for reimbursement and after-action-reporting.

The Contractor's WebEOC Software is used to support the SERT during Emergency Operations Center activations/day-to- day operations and is the established system to provide key mission support and information sharing across the SERT in providing emergency planning, response, recovery, and mitigation activities during a disaster or event.

1.3 List of Products, Maintenances and Professional Services

The vendor must be able to provide the entire list of products and services listed below:

- ASP Hosting - Daily Rate
- ASP Hosting - WebEOC Air and Cruise
- ASP Hosting - WebEOC Enterprise (Up to 750 Users)
- ASP Hosting - WebEOC Enterprise User Bundle (250 Users)
- ASP Hosting - WebEOC Fusion
- ASP Hosting - WebEOC Maps Add-On
- ASP Hosting - WebEOC Professional (1,000+ Users)
- ASP Hosting - WebEOC Professional (Up to 250 Users)
- ASP Hosting - WebEOC Professional (Up to 500 Users)
- ASP Hosting - WebEOC Professional (Up to 750 Users)
- ASP Hosting - WebEOC Professional Non-Production Instance

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WebEOC

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- ASP Hosting - WebEOC Resource Request and Deployment Manager
- ASP Hybrid Hosting (Up to 250 Users)
- ASP Hybrid Hosting (Up to 500 Users)
- Juvare Exchange - EMSuite/CORES
- Juvare Exchange - EMSuite/CORES Per Capita
- Juvare Exchange - EMSuite/CORES Per Facility
- Juvare Exchange - Pilot
- Juvare Exchange - WebEOC Core
- Juvare Exchange - WebEOC Enterprise without Fusion
- Juvare Exchange - WebEOC Professional
- Perpetual - Disaster Recovery Maintenance
- Perpetual - Fusion Maintenance
- Perpetual - Maps Add-On Maintenance
- Perpetual - Resource Request and Deployment Manager Maintenance
- Perpetual - WebEOC Core Maintenance
- Perpetual - WebEOC Enterprise Unlimited (10 Sub-Admin, Unlimited Users)
- Perpetual - WebEOC Enterprise Unlimited Maintenance
- Perpetual - WebEOC Professional Maintenance
- Professional Services - CORES Implementation - Enhanced
- Professional Services - Dedicated Services - 1/2 Time Dedicated Staff
- Professional Services - Dedicated Services - 1/4 Time Dedicated Staff
- Professional Services - Dedicated Services - Full Time Dedicated Staff
- Professional Services - eICS Implementation - Enhanced
- Professional Services - eICS Implementation - Express Remote
- Professional Services - eICS Implementation - Standard
- Professional Services - Emergency Response Program - Daily Rate
- Professional Services - EMResource Implementation - Enhanced
- Professional Services - EMResource Implementation - Standard
- Professional Services - EMTrack Implementation - Enhanced
- Professional Services - EMTrack Implementation - Standard
- Professional Services - Express Process & Architecture Review
- Professional Services - FleetEyes Implementation
- Professional Services - Process & Architecture Review
- Professional Services - Service Credit Hours
- Professional Services - Service Credit Plan - 100 hours
- Professional Services - Solutions Services Implementation - On Prem - Custom/Multi-Product
- Professional Services - Solutions Services Implementation - Perpetual - Custom/Multi-Product
- Professional Services - Solutions Services Implementation - Subscription - Custom/Multi-Product
- Professional Services - Solutions Services Project - Custom WebEOC
- Professional Services - Solutions Services Project - Other/MultiProduct

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- Professional Services - Travel and Per Diem
- Professional Services - WebEOC - On Prem Implementation - Active Users
- Professional Services - WebEOC - On Prem Implementation - Advanced File Library
- Professional Services - WebEOC - On Prem Implementation - Air and Cruise
- Professional Services - WebEOC - On Prem Implementation - ArcGIS Extension
- Professional Services - WebEOC - On Prem Implementation - Board Data Manager
- Professional Services - WebEOC - On Prem Implementation - Board Scheduler
- Professional Services - WebEOC - On Prem Implementation - Contacts Manager
- Professional Services - WebEOC - On Prem Implementation - Dashboard
- Professional Services - WebEOC - On Prem Implementation - Duty Roster
- Professional Services - WebEOC - On Prem Implementation - Enterprise Non-Production Instance
- Professional Services - WebEOC - On Prem Implementation - External Content Manager - Email Importer
- Professional Services - WebEOC - On Prem Implementation - External Content Manager - HTML Exporter
- Professional Services - WebEOC - On Prem Implementation - Fusion
- Professional Services - WebEOC - On Prem Implementation - Fusion Single Sign On for Active Directory
- Professional Services - WebEOC - On Prem Implementation - Maps Add-On
- Professional Services - WebEOC - On Prem Implementation - Messages Manager
- Professional Services - WebEOC - On Prem Implementation - Non-Production Instance
- Professional Services - WebEOC - On Prem Implementation - Notifications
- Professional Services - WebEOC - On Prem Implementation - Resource Request and Deployment Manager
- Professional Services - WebEOC - On Prem Implementation - Single Sign On for Active Directory and SAML
- Professional Services - WebEOC - On Prem Implementation - Telephone Call Center
- Professional Services - WebEOC - On Prem Implementation - User Importer
- Professional Services - WebEOC - Subscription Implementation - Active Users
- Professional Services - WebEOC - Subscription Implementation - Advanced File Library
- Professional Services - WebEOC - Subscription Implementation - Air and Cruise
- Professional Services - WebEOC - Subscription Implementation - ArcGIS Extension
- Professional Services - WebEOC - Subscription Implementation - Board Data Manager
- Professional Services - WebEOC - Subscription Implementation - Board Scheduler
- Professional Services - WebEOC - Subscription Implementation - Contacts Manager
- Professional Services - WebEOC - Subscription Implementation - Dashboard
- Professional Services - WebEOC - Subscription Implementation - Duty Roster

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- Professional Services - WebEOC - Subscription Implementation - Enterprise Non-Production Instance
- Professional Services - WebEOC - Subscription Implementation - External Content Manager - Email Importer
- Professional Services - WebEOC - Subscription Implementation - External Content Manager - HTML Exporter
- Professional Services - WebEOC - Subscription Implementation - Fusion
- Professional Services - WebEOC - Subscription Implementation - Maps Add-On
- Professional Services - WebEOC - Subscription Implementation - Messages Manager
- Professional Services - WebEOC - Subscription Implementation - Non-Production Instance
- Professional Services - WebEOC - Subscription Implementation - Notifications
- Professional Services - WebEOC - Subscription Implementation - Resource Request and Deployment Manager
- Professional Services - WebEOC - Subscription Implementation - Single Sign On for Active Directory and SAML
- Professional Services - WebEOC - Subscription Implementation - Telephone Call Center
- Professional Services - WebEOC - Subscription Implementation - User Importer
- Professional Services - WebEOC Core On Prem Implementation
- Professional Services - WebEOC Core Subscription Implementation
- Professional Services - WebEOC On Prem Implementation - Enhanced
- Professional Services - WebEOC On Prem Implementation - Express with DS
- Professional Services - WebEOC On Prem Implementation - Standard
- Professional Services - WebEOC Perpetual Implementation - Enhanced
- Professional Services - WebEOC Perpetual Implementation - Express with DS
- Professional Services - WebEOC Perpetual Implementation - Standard
- Professional Services - WebEOC Subscription Implementation - Enhanced
- Professional Services - WebEOC Subscription Implementation - Express with DS
- Professional Services - WebEOC Subscription Implementation - Standard
- RAVE Software
- RAVE Software Set Up
- RAVE/WebEOC Extension
- RAVE/WebEOC Extension Set Up
- Subscription - Active Users
- Subscription - Advanced File Library
- Subscription - Air and Cruise
- Subscription - ArcGIS Extension
- Subscription - Board Data Manager
- Subscription - Board Scheduler
- Subscription - Comprehensive Module Subscription Plan
- Subscription - Contacts Manager
- Subscription - Dashboard

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- Subscription - Duty Roster
- Subscription - eICS Interface
- Subscription - EMResource Interface
- Subscription - EMTrack Interface
- Subscription - External Content Manager - Email Importer
- Subscription - External Content Manager - HTML Exporter
- Subscription - Fusion
- Subscription - Maps Add-On
- Subscription - Messages Manager
- Subscription - Notifications
- Subscription - Resource Request and Deployment Manager
- Subscription - Single Sign On for Active Directory and SAML
- Subscription - Surge Capacity Plan
- Subscription - Telephone Call Center
- Subscription - User Importer
- Subscription - WebEOC - NMAS
- Subscription - WebEOC Core (2 Admin, 50 Users)
- Subscription - WebEOC Core (3 Admin, 75 Users)
- Subscription - WebEOC Enterprise New (5 Admin, 10 Sub-Admin, 750 Users)
- Subscription - WebEOC Enterprise New without Fusion (5 Admin, 10 Sub-Admin, 750 Users)
- Subscription - WebEOC Enterprise Non-Production Instance
- Subscription - WebEOC Enterprise Upgrade
- Subscription - WebEOC Enterprise Upgrade without Fusion
- Subscription - WebEOC Non-Production Instance
- Subscription - WebEOC Professional (3 Admin, 250 Users)
- Subscription - WebEOC User Bundle (1 Admin, 250 Users)
- Subscription - WebEOC User Bundle (10 Sub-Admin)
- Term - Active Users
- Term - Active Users Maintenance
- Term - Advanced File Library
- Term - Advanced File Library Maintenance
- Term - Air and Cruise
- Term - Air and Cruise Maintenance
- Term - ArcGIS Extension
- Term - ArcGIS Extension Maintenance
- Term - Board Data Manager
- Term - Board Data Manager Maintenance
- Term - Board Scheduler
- Term - Board Scheduler Maintenance
- Term - CAC/PKI Interface
- Term - CAC/PKI Interface Maintenance
- Term - Comprehensive Module Care Plan Maintenance

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- Term - Contacts Manager
- Term - Contacts Manager Maintenance
- Term - Dashboard
- Term - Dashboard Maintenance
- Term - Double-Take Advanced
- Term - Double-Take Advanced Maintenance
- Term - Double-Take Standard
- Term - Double-Take Standard Maintenance
- Term - Duty Roster
- Term - Duty Roster Maintenance
- Term - eICS Interface
- Term - eICS Interface Maintenance
- Term - EMResource Interface
- Term - EMResource Interface Maintenance
- Term - EMTrack Interface
- Term - EMTrack Interface Maintenance
- Term - External Content Manager - Email Importer
- Term - External Content Manager - Email Importer Maintenance
- Term - External Content Manager - HTML Exporter
- Term - External Content Manager - HTML Exporter Maintenance
- Term - Fusion
- Term - Fusion Maintenance
- Term - Fusion Single Sign On for Active Directory
- Term - Fusion Single Sign On for Active Directory Maintenance
- Term - Maps Add-On
- Term - Maps Add-On Maintenance
- Term - Messages Manager
- Term - Messages Manager Maintenance
- Term - Notifications
- Term - Notifications Maintenance
- Term - Resource Request and Deployment Manager
- Term - Resource Request and Deployment Manager Maintenance
- Term - Single Sign On for Active Directory and SAML
- Term - Single Sign On for Active Directory and SAML Maintenance
- Term - Surge Capacity Plan
- Term - Telephone Call Center
- Term - Telephone Call Center Maintenance
- Term - User Importer
- Term - User Importer Maintenance
- Term - WebEOC Core (2 Admin, 50 Users)
- Term - WebEOC Core (2 Admin, 50 Users) Maintenance
- Term - WebEOC Core (3 Admin, 75 Users)
- Term - WebEOC Core (3 Admin, 75 Users) Maintenance

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- Term - WebEOC Core Disaster Recovery
- Term - WebEOC Core Disaster Recovery Maintenance
- Term - WebEOC Enterprise New (5 Admin, 10 Sub-Admin, 750 Users)
- Term - WebEOC Enterprise New (5 Admin, 10 Sub-Admin, 750 Users) Maintenance
- Term - WebEOC Enterprise New without Fusion (5 Admin, 10 Sub-Admin, 750 Users)
- Term - WebEOC Enterprise New without Fusion (5 Admin, 10 Sub-Admin, 750 Users) Maintenance
- Term - WebEOC Enterprise Non-Production Instance
- Term - WebEOC Enterprise Non-Production Instance Maintenance
- Term - WebEOC Enterprise Upgrade
- Term - WebEOC Enterprise Upgrade (5 Admin, 10 Sub-Admin, 750 Users) Maintenance
- Term - WebEOC Enterprise Upgrade without Fusion
- Term - WebEOC Enterprise Upgrade without Fusion Maintenance
- Term - WebEOC Non-Production Instance
- Term - WebEOC Non-Production Instance Maintenance
- Term - WebEOC Professional (3 Admin, 250 Users)
- Term - WebEOC Professional (3 Admin, 250 Users) Maintenance
- Term - WebEOC Professional Disaster Recovery
- Term - WebEOC Professional Disaster Recovery Maintenance
- Term - WebEOC Professional Unlimited
- Term - WebEOC Professional Unlimited Maintenance
- Term - WebEOC User Bundle (1 Admin, 250 Users)
- Term - WebEOC User Bundle (1 Admin, 250 Users) Maintenance
- Term - WebEOC User Bundle (10 Sub-Admin)
- Term - WebEOC User Bundle (10 Sub-Admin) Maintenance
- Training Center - Onsite WebEOC Advanced Board Building
- Training Center - Onsite WebEOC Bootcamp
- Training Center - Onsite WebEOC Intermediate Board Building
- Training Center - Specialized Training Services - Custom
- Training Center - Web-Based Training
- Training Center - WebEOC Advanced Board Building
- Training Center - WebEOC Bootcamp
- Training Center - WebEOC Intermediate Board Building
- WebEOC License Transfer Fee
- WebEOC Mobile Enabled Custom Form
- WebEOC Software Maintenance
- WebEOCx Powered by Juvare Exchange - Subscription Core (2 Admin, 50 users)
- WebEOCx Powered by Juvare Exchange - Subscription Core (3 Admin, 75 users)
- WebEOCx Powered by Juvare Exchange - Subscription Enterprise without Fusion (5 Admin, 10 Sub-Admin, 750 Users)

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- WebEOCx Powered by Juvare Exchange - Subscription Professional (3 Admin, 250 Users)
- WebEOCx Powered by Juvare Exchange - Term Core (2 Admin, 50 users)
- WebEOCx Powered by Juvare Exchange - Term Core (2 Admin, 50 users) Maintenance
- WebEOCx Powered by Juvare Exchange - Term Core (3 Admin, 75 users)
- WebEOCx Powered by Juvare Exchange - Term Core (3 Admin, 75 users) Maintenance
- WebEOCx Powered by Juvare Exchange - Term Enterprise without Fusion (5 Admin, 10 Sub-Admin, 750 Users)
- WebEOCx Powered by Juvare Exchange - Term Enterprise without Fusion (5 Admin, 10 Sub-Admin, 750 Users) Maintenance
- WebEOCx Powered by Juvare Exchange - Term Professional (3 Admin, 250 Users)
- WebEOCx Powered by Juvare Exchange - Term Professional (3 Admin, 250 Users) Maintenance

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CONTRACT# G0069
EXHIBIT B

Attachment C Price Sheet
ITB-DEM-19-20-026 WebEOC
Initial Three (3) Year Term

Product Code	Product Description	Unit of Measure	Price
103-H-DAY-1	ASP Hosting - Daily Rate	Daily	$ 48.00
103-H-AC-1	ASP Hosting - WebEOC Air and Cruise	Annual	$ 1,584.00
103-H-ENT-750	ASP Hosting - WebEOC Enterprise (Up to 750 Users)	Annual	$ 24,851.00
103-H-EUB-250	ASP Hosting - WebEOC Enterprise User Bundle (250 Users)	Annual	$ 5,280.00
103-H-FUS-1	ASP Hosting - WebEOC Fusion	Annual	$ 17,424.00
103-H-MAP-1	ASP Hosting - WebEOC Maps Add-On	Annual	$ 4,171.00
103-H-PRO-1000	ASP Hosting - WebEOC Professional (1,000+ Users)	Annual	$ 24,130.00
103-H-PRO-250	ASP Hosting - WebEOC Professional (Up to 250 Users)	Annual	$ 8,290.00
103-H-PRO-500	ASP Hosting - WebEOC Professional (Up to 500 Users)	Annual	$ 12,336.00
103-H-PRO-750	ASP Hosting - WebEOC Professional (Up to 750 Users)	Annual	$ 24,851.00
103-H-NPI-PRO	ASP Hosting - WebEOC Professional Non-Production Instance	Annual	$ 4,145.00
103-H-RRDM-1	ASP Hosting - WebEOC Resource Request and Deployment Manager	Annual	$ 1,267.00
103-H-USERS-250	ASP Hybrid Hosting (Up to 250 Users)	Annual	$ 6,192.00
103-H-Users-500	ASP Hybrid Hosting (Up to 500 Users)	Annual	$ 10,992.00
112-JXW-COR	Juvare Exchange - WebEOC Core	Annual	$ 5,069.00
112-JXW-ENT	Juvare Exchange - WebEOC Enterprise without Fusion	Annual	$ 20,376.00
112-JXW-PRO	Juvare Exchange - WebEOC Professional	Annual	$ 10,152.00
102-P-DR-1	Perpetual - Disaster Recovery Maintenance	Annual	$ 845.00
102-P-FUS-1	Perpetual - Fusion Maintenance	Annual	$ 15,840.00
102-P-MAP-1	Perpetual - Maps Add-On Maintenance	Annual	$ 4,118.00
102-P-RRDM-1	Perpetual - Resource Request and Deployment Manager Maintenance	Annual	$ 3,456.00
102-P-CORE-1	Perpetual - WebEOC Core Maintenance	Annual	$ 5,174.00
100-P-ENT-UNL	Perpetual - WebEOC Enterprise Unlimited (10 Sub-Admin, Unlimited Users)	Each	$ 221,760.00
102-P-ENT-UNL	Perpetual - WebEOC Enterprise Unlimited Maintenance	Annual	$ 34,848.00
102-P-PRO-1	Perpetual - WebEOC Professional Maintenance	Annual	$ 15,840.00
700-P-DS-H	Professional Services - Dedicated Services - 1/2 Time Dedicated Staff	Annual	$ 138,240.00

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Attachment C Price Sheet
ITB-DEM-19-20-026 WebEOC
Initial Three (3) Year Term

Product Code	Product Description	Unit of Measure	Price
700-P-DS-Q	Professional Services - Dedicated Services - 1/4 Time Dedicated Staff	Annual	$ 73,728.00
700-P-DS-F	Professional Services - Dedicated Services - Full Time Dedicated Staff	Annual	$ 248,832.00
700-P-ERP-1	Professional Services - Emergency Response Program - Daily Rate	Daily	$ 2,880.00
700-P-EPAR-1	Professional Services - Express Process & Architecture Review	Each	$ 4,800.00
700-P-PAR-1	Professional Services - Process & Architecture Review	Each	$ 24,000.00
700-P-SCP-1	Professional Services - Service Credit Hours	Each / Hourly	$ 240.00
700-P-SCP-100	Professional Services - Service Credit Plan - 100 hours	Each	$ 21,600.00
700-P-SSI-OP	Professional Services - Solutions Services Implementation - On Prem - Custom/Multi-Product	Hourly	$ 240.00
700-P-SSI-P	Professional Services - Solutions Services Implementation - Perpetual - Custom/Multi-Product	Hourly	$ 240.00
700-P-SSI-S	Professional Services - Solutions Services Implementation - Subscription - Custom/Multi-Product	Hourly	$ 240.00
700-P-SSP-1	Professional Services - Solutions Services Project - Custom WebEOC	Hourly	$ 240.00
700-P-SSP-2	Professional Services - Solutions Services Project - Other/MultiProduct	Hourly	$ 240.00
700-P-TPD-1	Professional Services - Travel and Per Diem		$ 1,008.00
700-P-PMAU-1	Professional Services - WebEOC - On Prem Implementation - Active Users	Each	$ 960.00
700-P-PMAFL-1	Professional Services - WebEOC - On Prem Implementation - Advanced File Library	Each	$ 960.00
700-P-PMAC-1	Professional Services - WebEOC - On Prem Implementation - Air and Cruise	Each	$ 10,560.00
700-P-PMAGE-1	Professional Services - WebEOC - On Prem Implementation - ArcGIS Extension	Each	$ 3,840.00
700-P-PMBDM-1	Professional Services - WebEOC - On Prem Implementation - Board Data Manager	Each	$ 960.00

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Attachment C Price Sheet
ITB-DEM-19-20-026 WebEOC
Initial Three (3) Year Term

Product Code	Product Description	Unit of Measure	Price
700-P-PMBS-1	Professional Services - WebEOC - On Prem Implementation - Board Scheduler	Each	$ 960.00
700-P-PMCM-1	Professional Services - WebEOC - On Prem Implementation - Contacts Manager	Each	$ 960.00
700-P-PMDB-1	Professional Services - WebEOC - On Prem Implementation - Dashboard	Each	$ 1,920.00
700-P-PMDR-1	Professional Services - WebEOC - On Prem Implementation - Duty Roster	Each	$ 1,920.00
700-P-PMENPI-1	Professional Services - WebEOC - On Prem Implementation - Enterprise Non-Production Instance	Each	$ 3,840.00
700-P-PMECM-1	Professional Services - WebEOC - On Prem Implementation - External Content Manager - Email Importer	Each	$ 1,920.00
700-P-PMECM-2	Professional Services - WebEOC - On Prem Implementation - External Content Manager - HTML Exporter	Each	$ 1,920.00
700-P-PMF-1	Professional Services - WebEOC - On Prem Implementation - Fusion	Each	$ 33,648.00
700-P-PMFSSO-1	Professional Services - WebEOC - On Prem Implementation - Fusion Single Sign On for Active Directory	Each	$ 2,880.00
700-P-PMMAO-1	Professional Services - WebEOC - On Prem Implementation - Maps Add-On	Each	$ 3,840.00
700-P-PMMM-1	Professional Services - WebEOC - On Prem Implementation - Messages Manager	Each	$ 1,920.00
700-P-PMNPI-1	Professional Services - WebEOC - On Prem Implementation - Non-Production Instance	Each	$ 3,840.00
700-P-PMN-1	Professional Services - WebEOC - On Prem Implementation - Notifications	Each	$ 960.00
700-P-PMRRDM-1	Professional Services - WebEOC - On Prem Implementation - Resource Request and Deployment Manager	Each	$ 10,560.00
700-P-PMSSO-1	Professional Services - WebEOC - On Prem Implementation - Single Sign On for Active Directory and SAML	Each	$ 1,920.00
700-P-PMTCC-1	Professional Services - WebEOC - On Prem Implementation - Telephone Call Center	Each	$ 1,920.00

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Attachment C Price Sheet
ITB-DEM-19-20-026 WebEOC
Initial Three (3) Year Term

Product Code	Product Description	Unit of Measure		Price
700-P-PMUI-1	Professional Services - WebEOC - On-Prem Implementation - User Importer	Each	$	960.00
700-P-SMAU-1	Professional Services - WebEOC - Subscription Implementation - Active Users	Each	$	1,776.00
700-P-SMADF-1	Professional Services - WebEOC - Subscription Implementation - Advanced File Library	Each	$	1,776.00
700-P-SMAC-1	Professional Services - WebEOC - Subscription Implementation - Air and Cruise	Each	$	11,376.00
700-P-SMAGE-1	Professional Services - WebEOC - Subscription Implementation - ArcGIS Extension	Each	$	4,656.00
700-P-SMBDM-1	Professional Services - WebEOC - Subscription Implementation - Board Data Manager	Each	$	1,776.00
700-P-SMBS-1	Professional Services - WebEOC - Subscription Implementation - Board Scheduler	Each	$	1,776.00
700-P-SMCM-1	Professional Services - WebEOC - Subscription Implementation - Contacts Manager	Each	$	1,776.00
700-P-SMDB-1	Professional Services - WebEOC - Subscription Implementation - Dashboard	Each	$	2,736.00
700-P-SMDR-1	Professional Services - WebEOC - Subscription Implementation - Duty Roster	Each	$	2,736.00
700-P-SMENPI-1	Professional Services - WebEOC - Subscription Implementation - Enterprise Non-Production Instance	Each	$	4,656.00
700-P-SMECM-1	Professional Services - WebEOC - Subscription Implementation - External Content Manager - Email Importer	Each	$	2,736.00
700-P-SMECM-2	Professional Services - WebEOC - Subscription Implementation - External Content Manager - HTML Exporter	Each	$	2,736.00
700-P-SMF-1	Professional Services - WebEOC - Subscription Implementation - Fusion	Each	$	34,464.00
700-P-SMMAO-1	Professional Services - WebEOC - Subscription Implementation - Maps Add-On	Each	$	4,656.00
700-P-SMMM-1	Professional Services - WebEOC - Subscription Implementation - Messages Manager	Each	$	2,736.00

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Attachment C Price Sheet
ITB-DEM-19-20-026 WebEOC
Initial Three (3) Year Term

Product Code	Product Description	Unit of Measure	Price
700-P-SMNPI-1	Professional Services - WebEOC - Subscription Implementation - Non-Production Instance	Each	$ 4,656.00
700-P-SMN-1	Professional Services - WebEOC - Subscription Implementation - Notifications	Each	$ 1,776.00
700-P-SMRRDM-1	Professional Services - WebEOC - Subscription Implementation - Resource Request and Deployment Manager	Each	$ 11,376.00
700-P-SMSSO-1	Professional Services - WebEOC - Subscription Implementation - Single Sign On for Active Directory and SAML	Each	$ 2,736.00
700-P-SMTCC-1	Professional Services - WebEOC - Subscription Implementation - Telephone Call Center	Each	$ 2,736.00
700-P-SMUI-1	Professional Services - WebEOC - Subscription Implementation - User Importer	Each	$ 1,776.00
700-P-CORE-OP	Professional Services - WebEOC Core On Prem Implementation	Each	$ 3,360.00
700-P-CORE-S	Professional Services - WebEOC Core Subscription Implementation	Each	$ 3,360.00
700-P-WOP-E	Professional Services - WebEOC On Prem Implementation - Enhanced	Each	$ 69,120.00
700-P-WOP-EDS	Professional Services - WebEOC On Prem Implementation - Express with DS	Each	$ 28,320.00
700-P-WOP-S	Professional Services - WebEOC On Prem Implementation - Standard	Each	$ 43,200.00
700-P-WP-E	Professional Services - WebEOC Perpetual Implementation - Enhanced	Each	$ 69,120.00
700-P-WP-EDS	Professional Services - WebEOC Perpetual Implementation - Express with DS	Each	$ 28,320.00
700-P-WP-S	Professional Services - WebEOC Perpetual Implementation - Standard	Each	$ 43,200.00
700-P-WS-E	Professional Services - WebEOC Subscription Implementation - Enhanced	Each	$ 69,120.00
700-P-WS-EDS	Professional Services - WebEOC Subscription Implementation - Express with DS	Each	$ 28,320.00

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Attachment C Price Sheet
ITB-DEM-19-20-026 WebEOC
Initial Three (3) Year Term

Product Code	Product Description	Unit of Measure		Price
700-P-WS-S	Professional Services - WebEOC Subscription Implementation - Standard	Each	$	43,200.00
103-R-SA-1	RAVE Software	Annual		N/A
103-R-SSUP-1	RAVE Software Set Up	Each	$	1,728.00
103-R-EXT-1	RAVE/WebEOC Extension	Each	$	2,400.00
103-R-ESUP-1	RAVE/WebEOC Extension Set Up	Each	$	1,440.00
101-S-AU-1	Subscription - Active Users	Annual	$	1,056.00
101-S-AF-1	Subscription - Advanced File Library	Annual	$	3,168.00
101-S-AC-1	Subscription - Air and Cruise	Annual	$	2,448.00
101-S-AGIS-1	Subscription - ArcGIS Extension	Annual	$	6,336.00
101-S-BDM-1	Subscription - Board Data Manager	Annual	$	5,280.00
101-S-BS-1	Subscription - Board Scheduler	Annual	$	3,168.00
101-S-CMSP-1	Subscription - Comprehensive Module Subscription Plan	Annual	$	19,584.00
101-S-CM-1	Subscription - Contacts Manager	Annual	$	5,280.00
101-S-DB-1	Subscription - Dashboard	Annual	$	960.00
101-S-DR-1	Subscription - Duty Roster	Annual	$	5,280.00
101-S-IEICS-1	Subscription - eICS Interface	Annual	$	6,336.00
101-S-IEMR-1	Subscription - EMResource Interface	Annual	$	6,336.00
101-S-IEMT-1	Subscription - EMTrack Interface	Annual	$	6,336.00
101-S-ECM-EMAIL	Subscription - External Content Manager - Email Importer	Annual	$	5,280.00
101-S-ECM-HTML	Subscription - External Content Manager - HTML Exporter	Annual	$	5,280.00
101-S-FUS-1	Subscription - Fusion	Annual	$	30,120.00
101-S-MAP-1	Subscription - Maps Add-On	Annual	$	8,328.00
101-S-MM-1	Subscription - Messages Manager	Annual	$	5,280.00
101-S-NFN-1	Subscription - Notifications	Annual	$	5,280.00
101-S-RRDM-1	Subscription - Resource Request and Deployment Manager	Annual	$	8,328.00
101-S-SSO-1	Subscription - Single Sign On for Active Directory and SAML	Annual	$	5,280.00
101-S-SCP-1	Subscription - Surge Capacity Plan	Annual	$	5,760.00
101-S-TCC-1	Subscription - Telephone Call Center	Annual	$	2,448.00
101-S-UI-1	Subscription - User Importer	Annual	$	3,168.00

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Attachment C Price Sheet
ITB-DEM-19-20-026 WebEOC
Initial Three (3) Year Term

Product Code	Product Description	Unit of Measure	Price
100-S-NMAS-1	Subscription - WebEOC - NMAS	Annual	$ N/A
100-S-CORE-1	Subscription - WebEOC Core (2 Admin, 50 Users)	Annual	$ 9,600.00
100-S-CORE-2	Subscription - WebEOC Core (3 Admin, 75 Users)	Annual	$ 14,688.00
100-S-ENT-NEW	Subscription - WebEOC Enterprise New (5 Admin, 10 Sub-Admin, 750 Users)	Annual	$ 59,784.00
100-S-ENT-NOF	Subscription - WebEOC Enterprise New without Fusion (5 Admin, 10 Sub-Admin, 750 Users)	Annual	$ 46,560.00
101-S-NPI-ENT	Subscription - WebEOC Enterprise Non-Production Instance	Annual	$ 15,840.00
100-S-ENT-UPG	Subscription - WebEOC Enterprise Upgrade	Annual	$ 38,400.00
100-S-ENT-UNF	Subscription - WebEOC Enterprise Upgrade without Fusion	Annual	$ 26,400.00
101-S-NPI-1	Subscription - WebEOC Non-Production Instance	Annual	$ 4,800.00
100-S-PRO-1	Subscription - WebEOC Professional (3 Admin, 250 Users)	Annual	$ 26,880.00
101-S-UB-USERS	Subscription - WebEOC User Bundle (1 Admin, 250 Users)	Annual	$ 4,800.00
101-S-UB-ADMIN	Subscription - WebEOC User Bundle (10 Sub-Admin)	Annual	$ 1,920.00
101-T-AU-1	Term - Active Users	Each	$ 2,112.00
102-T-AU-1	Term - Active Users Maintenance	Annual	$ 317.00
101-T-AFL-1	Term - Advanced File Library	Each	$ 6,336.00
102-T-AFL-1	Term - Advanced File Library Maintenance	Annual	$ 950.00
101-T-AC-1	Term - Air and Cruise	Each	$ 7,200.00
102-T-AC-1	Term - Air and Cruise Maintenance	Annual	$ 1,584.00
101-T-AGIS-1	Term - ArcGIS Extension	Each	$ 12,672.00
102-T-AGIS-1	Term - ArcGIS Extension Maintenance	Annual	$ 1,901.00
101-T-BDM-1	Term - Board Data Manager	Each	$ 10,560.00
102-T-BDM-1	Term - Board Data Manager Maintenance	Annual	$ 1,584.00
101-T-BS-1	Term - Board Scheduler	Each	$ 6,336.00
102-T-BS-1	Term - Board Scheduler Maintenance	Annual	$ 950.00
101-T-ICP-1	Term - CAC/PKI Interface	Each	$ 12,240.00
102-T-ICP-1	Term - CAC/PKI Interface Maintenance	Annual	$ 1,901.00
102-T-CMCP-1	Term - Comprehensive Module Care Plan Maintenance	Annual	$ 9,504.00
101-T-CM-1	Term - Contacts Manager	Each	$ 10,560.00
102-T-CM-1	Term - Contacts Manager Maintenance	Annual	$ 1,584.00

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Attachment C Price Sheet
ITB-DEM-19-20-026 WebEOC
Initial Three (3) Year Term

Product Code	Product Description	Unit of Measure	Price
101-T-DB-1	Term - Dashboard	Each	$ 3,360.00
102-T-DB-1	Term - Dashboard Maintenance	Annual	$ 504.00
103-T-DT-ADV	Term - Double-Take Advanced	Each	$ 4,800.00
102-T-DT-ADV	Term - Double-Take Advanced Maintenance	Annual	$ 1,056.00
103-T-DT-STD	Term - Double-Take Standard	Each	$ 3,360.00
102-T-DT-STD	Term - Double-Take Standard Maintenance	Annual	$ 739.00
101-T-DR-1	Term - Duty Roster	Each	$ 10,560.00
102-T-DR-1	Term - Duty Roster Maintenance	Annual	$ 1,584.00
101-T-EICS-1	Term - eICS Interface	Each	$ 12,672.00
102-T-EICS-1	Term - eICS Interface Maintenance	Annual	$ 1,901.00
101-T-EMR-1	Term - EMResource Interface	Each	$ 12,672.00
102-T-EMR-1	Term - EMResource Interface Maintenance	Annual	$ 1,901.00
101-T-EMT-1	Term - EMTrack Interface	Each	$ 6,336.00
102-T-EMT-1	Term - EMTrack Interface Maintenance	Annual	$ 1,901.00
101-T-ECM-EMAIL	Term - External Content Manager - Email Importer	Each	$ 10,560.00
102-T-ECM-EMAIL	Term - External Content Manager - Email Importer Maintenance	Annual	$ 1,584.00
101-T-ECM-HTML	Term - External Content Manager - HTML Exporter	Each	$ 10,560.00
102-T-ECM-HTML	Term - External Content Manager - HTML Exporter Maintenance	Annual	$ 1,584.00
101-T-FUS-1	Term - Fusion	Each	$ 88,584.00
102-T-FUS-1	Term - Fusion Maintenance	Annual	$ 17,424.00
101-T-FSSO-1	Term - Fusion Single Sign On for Active Directory	Each	$ 10,560.00
102-T-FSSO-1	Term - Fusion Single Sign On for Active Directory Maintenance	Annual	$ 1,584.00
101-T-MAP-1	Term - Maps Add-On	Each	$ 24,552.00
102-T-MAP-1	Term - Maps Add-On Maintenance	Annual	$ 5,402.00
101-T-MM-1	Term - Messages Manager	Each	$ 10,560.00
102-T-MM-1	Term - Messages Manager Maintenance	Annual	$ 1,584.00
101-T-NFN-1	Term - Notifications	Each	$ 10,560.00
102-T-NFN-1	Term - Notifications Maintenance	Annual	$ 1,584.00

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Attachment C Price Sheet
ITB-DEM-19-20-026 WebEOC
Initial Three (3) Year Term

Product Code	Product Description	Unit of Measure	Price
101-T-RRDM-1	Term - Resource Request and Deployment Manager	Each	$ 24,552.00
102-T-RRDM-1	Term - Resource Request and Deployment Manager Maintenance	Annual	$ 3,683.00
101-T-SSO-1	Term - Single Sign On for Active Directory and SAML	Each	$ 10,560.00
102-T-SSO-1	Term - Single Sign On for Active Directory and SAML Maintenance	Annual	$ 1,584.00
101-T-SCP-1	Term - Surge Capacity Plan	Each	$ 11,520.00
101-T-TCC-1	Term - Telephone Call Center	Each	$ 7,200.00
102-T-TCC-1	Term - Telephone Call Center Maintenance	Annual	$ 1,584.00
101-T-UI-1	Term - User Importer	Each	$ 6,336.00
102-T-UI-1	Term - User Importer Maintenance	Annual	$ 950.00
100-T-CORE-1	Term - WebEOC Core (2 Admin, 50 Users)	Each	$ 17,280.00
102-T-Core-1	Term - WebEOC Core (2 Admin, 50 Users) Maintenance	Annual	$ 3,802.00
100-T-CORE-2	Term - WebEOC Core (3 Admin, 75 Users)	Each	$ 30,720.00
102-T-Core-2	Term - WebEOC Core (3 Admin, 75 Users) Maintenance	Annual	$ 6,758.00
101-T-DR-CORE	Term - WebEOC Core Disaster Recovery	Each	$ 4,800.00
102-T-DR-CORE	Term - WebEOC Core Disaster Recovery Maintenance	Annual	$ 2,112.00
100-T-ENT-NEW	Term - WebEOC Enterprise New (5 Admin, 10 Sub-Admin, 750 Users)	Each	$ 158,400.00
102-T-ENT-NEW	Term - WebEOC Enterprise New (5 Admin, 10 Sub-Admin, 750 Users) Maintenance	Annual	$ 34,848.00
100-T-ENT-NOF	Term - WebEOC Enterprise New without Fusion (5 Admin, 10 Sub-Admin, 750 Users)	Each	$ 139,200.00
102-T-ENT-NNF	Term - WebEOC Enterprise New without Fusion (5 Admin, 10 Sub-Admin, 750 Users) Maintenance	Annual	$ 27,168.00
101-T-NPI-ENT	Term - WebEOC Enterprise Non-Production Instance	Each	$ 15,840.00
102-T-NPI-ENT	Term - WebEOC Enterprise Non-Production Instance Maintenance	Annual	$ 1,584.00
100-T-ENT-UPG	Term - WebEOC Enterprise Upgrade	Each	$ 110,400.00
102-T-ENT-UPG	Term - WebEOC Enterprise Upgrade (5 Admin, 10 Sub-Admin, 750 Users) Maintenance	Annual	$ 34,848.00
100-T-ENT-UNF	Term - WebEOC Enterprise Upgrade without Fusion	Each	$ 75,840.00
102-T-ENT-UNF	Term - WebEOC Enterprise Upgrade without Fusion Maintenance	Annual	$ 27,168.00
101-T-NPI-1	Term - WebEOC Non-Production Instance	Each	$ 7,200.00

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Attachment C Price Sheet
ITB-DEM-19-20-026 WebEOC
Initial Three (3) Year Term

Product Code	Product Description	Unit of Measure		Price
102-T-NPI-1	Term – WebEOC Non-Production Instance Maintenance	Annual	$	1,584.00
100-T-PRO-1	Term – WebEOC Professional (3 Admin, 250 Users)	Each	$	72,000.00
102-T-PRO-1	Term – WebEOC Professional (3 Admin, 250 Users) Maintenance	Annual	$	15,840.00
101-T-DR-PRO	Term – WebEOC Professional Disaster Recovery	Each	$	9,600.00
102-T-DR-PRO	Term – WebEOC Professional Disaster Recovery Maintenance	Annual	$	2,112.00
100-T-PRO-UNL	Term – WebEOC Professional Unlimited	Each	$	100,800.00
102-T-PRO-UNL	Term – WebEOC Professional Unlimited Maintenance	Annual	$	22,176.00
101-T-UB-USERS	Term – WebEOC User Bundle (1 Admin, 250 Users)	Each	$	7,200.00
102-T-UB-USERS	Term – WebEOC User Bundle (1 Admin, 250 Users) Maintenance	Annual	$	1,584.00
101-T-UB-ADMIN	Term – WebEOC User Bundle (10 Sub-Admin)	Each	$	3,360.00
102-T-UB-ADMIN	Term – WebEOC User Bundle (10 Sub-Admin) Maintenance	Annual	$	739.00
800-R-ABB-O	Training Center – Onsite WebEOC Advanced Board Building	Each	$	5,760.00
800-R-WEOCB-O	Training Center – Onsite WebEOC Bootcamp	Each	$	5,760.00
800-R-IBB-O	Training Center – Onsite WebEOC Intermediate Board Building	Each	$	5,760.00
800-R-STS-1	Training Center – Specialized Training Services – Custom	Hourly	$	240.00
800-R-WBT-1	Training Center – Web-Based Training	Each	$	859.00
800-R-ABB-1	Training Center – WebEOC Advanced Board Building	Each	$	1,920.00
800-R-WEOCB-1	Training Center – WebEOC Bootcamp	Each	$	1,920.00
800-R-IBB-1	Training Center – WebEOC Intermediate Board Building	Each	$	1,920.00
101-M-LTF-1	WebEOC License Transfer Fee	Each	$	1,920.00
101-M-MECF-1	WebEOC Mobile Enabled Custom Form	Each	$	1,920.00
102-P-LEG	WebEOC Software Maintenance	Annual	$	13,536.00
111-JXW-SCOR1	WebEOCx Powered by Juvare Exchange - Subscription Core (2 Admin, 50 users)	Annual	$	12,979.00
111-JXW-SCOR2	WebEOCx Powered by Juvare Exchange - Subscription Core (3 Admin, 75 users)	Annual	$	18,067.00
111-JXW-SENTNF	WebEOCx Powered by Juvare Exchange - Subscription Enterprise without Fusion (5 Admin, 10 Sub-Admin, 750 Users)	Annual	$	60,144.00

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Attachment C Price Sheet
ITB-DEM-19-20-026 WebEOC
Initial Three (3) Year Term

Product Code	Product Description	Unit of Measure	Price
111-JXW-SPRO	WebEOCx Powered by Juvare Exchange - Subscription Professional (3 Admin, 250 Users)	Annual	$ 33,648.00
111-JXW-TCOR1	WebEOCx Powered by Juvare Exchange - Term Core (2 Admin, 50 users)	Each	$ 20,659.00
110-JXW-TCOR1	WebEOCx Powered by Juvare Exchange - Term Core (2 Admin, 50 users) Maintenance	Annual	$ 4,546.00
111-JXW-TCOR2	WebEOCx Powered by Juvare Exchange - Term Core (3 Admin, 75 users)	Each	$ 34,099.00
110-JXW-TCOR2	WebEOCx Powered by Juvare Exchange - Term Core (3 Admin, 75 users) Maintenance	Annual	$ 7,502.00
111-JXW-TENTNF	WebEOCx Powered by Juvare Exchange - Term Enterprise without Fusion (5 Admin, 10 Sub-Admin, 750 Users)	Each	$ 152,784.00
110-JXW-TENTNF	WebEOCx Powered by Juvare Exchange - Term Enterprise without Fusion (5 Admin, 10 Sub-Admin, 750 Users) Maintenance	Annual	$ 33,614.00
111-JXW-TPRO	WebEOCx Powered by Juvare Exchange - Term Professional (3 Admin, 250 Users)	Each	$ 78,768.00
110-JXW-TPRO	WebEOCx Powered by Juvare Exchange - Term Professional (3 Admin, 250 Users) Maintenance	Annual	$ 17,328.00
		Sub-Total #1	$ 3,907,063.00

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CONTRACT# 20-AT-0000-97-00-G0069
EXHIBIT C

WebEOC Subscription Agreement (Hosted Implementation)

TO BE COMPLETED BY ESI BEFORE EXECUTION BY CLIENT

This **WebEOC Subscription Agreement** (the "**Agreement**"), effective this ____ day of_____, 2020 ("**Effective Date**"), is made by and between **ESi Acquisition, Inc.** ("**ESi**"), a Delaware Corporation with its principal place of business located at 235 Peachtree Street NE, Suite 2300, Atlanta, Georgia 30303 and **the**
_____   ("Client"),   a(n)   _____
_____   having   its   principal   place   of   business
                                                                                                                              . ESi and
Client may individually be referred to as a "Party" herein, or the "Parties" collectively.

This Agreement is subject to the State of Florida Agency Term Contract, Contract Number _____ **(the "2020 Agency Term Contract"), by and between the State of Florida, Division of Emergency Management (the "Division") and ESi. In the event of an inconsistency in the terms of this Agreement and the terms of the 2020 Agency Term Contract, the terms in the 2020 Agency Term Contract shall control for purposes of such inconsistency.**

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1.   Agreement. This is a Software-as-a-Service ("SaaS") based subscription agreement and not an agreement for sale. As of the Effective Date of this Agreement, this Agreement covers the WebEOC® Software Subscription and services (including Support Services) that Client purchases from ESi as a provider of Hosted/hosting services for the Software governed by this Agreement ("**Services**") pursuant to Exhibits, Orders and Quotes hereto that are executed and/or agreed upon by both parties and expressly references this Agreement. This Agreement and all applicable Exhibits, Orders and Quotes hereto for Services and any attachments hereto and thereto are the complete agreement regarding ESi's Services hereunder and replace any prior oral or written communications between Client and ESi relating to such transactions. Client agrees that purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by ESi regarding future functionality or features.

2   **Definitions.** Unless otherwise specifically stated in this Agreement or in any Exhibit or Quote hereto, the capitalized terms used in this Agreement shall have the meanings set forth below:

2.1   "Administrator" means an employee, officer, director or consultant of Client to whom Client has provided a user account and certain rights to administer the Software on behalf of Client.

2.2   "Affiliate" means an entity that controls, is controlled by, or is under common control with a party hereto.

2.3   "Client Data" means data input by Client or its authorized Users into the Software.

2.4   "Hosted Services" means as set forth in Exhibit D to this Agreement.

2.5   "Consulting Services" means all the professional services for installation or implementation of Hosted Services or Software, training services, or other non-recurring services as set forth on Exhibit E hereto; Consulting Services do not include Hosted Services or Support Services.

2.6   "Derivative Work(s)" means the work based on or derived from or modifications, enhancements or other functional extensions of the Software.

2.7   "Documentation" means the user manuals, requirements, specifications, training materials, and any other documents, materials, information or guidance, whether supplied as printed material or in electronic form, provided by ESi in conjunction with the purchase, training, use, technical support or update of the Software and Services provided hereunder.

2.8   "Fee" means the amounts due and payable by Client to ESi for the Subscription and Services pursuant to this Agreement; the Fee may be set forth on Exhibit C, as amended from time to time, to this Agreement or Quotes or Orders.

2.9   "Installation" of the Software shall be deemed to be complete on the sooner to occur of (i) the day that the Software is available for production, (ii) the date of Client's first use of the Software in a live production environment, or (iii) 90 days following the date of Client's execution of this Agreement (or if for an amendment, Exhibit or Statement of Work adding Software License(s) under this Agreement, the Client's execution of such subsequent amendment, Exhibit or Statement of Work).

2.10   "Module" means a proprietary set of status boards developed by ESi for use with selected WebEOC Software which are designed to address a common functional need.

2.11   "Party" means as defined in the preamble above.

2.12   "Software," means, individually and collectively, all of the software granted to Client from ESi via the Subscription as identified on Exhibit A hereto and Software Updates to such software.

2.13   "Software Support Plan" means the Support Services plan provided by ESi pursuant to Exhibit C and Quotes to this Agreement.

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2.14 "Software Updates" means any technical correction, patch, bug fix, enhancement or other software release to the Software that is provided to Client pursuant to the Software Support Plan or the Software Subscription purchased by Client.

2.15 "Standard Business Hours" shall mean 9:00 a.m. through 6:00 p.m. U.S. Eastern Time, Monday through Friday, excluding holidays, and are subject to change by ESi.

2.16 "Sub-Administrator" shall mean as set forth in Section 6 of this Agreement.

2.17 "Subscription" means a SaaS based subscription for Client to use and access the proprietary Software, Software Updates, online and/or hard-copy documentation and user guides as set forth in Section 4 of this Agreement and for the Term set forth in Exhibit A.

2.18 "Support Services" means the technical support services provided by ESi pursuant to Section 11, Exhibit B and Exhibit C to this Agreement. May also be referred to as "Software Support Services."

2.19 "Surge Capacity Plan" means an optional emergency response program which permits Client to increase the number of Users to support response to or recovery from an incident declared a disaster by a state or federal government agency.

2.20 "Term" means as set forth in Section 5 of this Agreement.

2.21 "Travel Expenses" means travel, living and out of pocket expenses (including travel agent service fees and applicable internal per diems) incurred by ESi in connection with the performance of Services hereunder, including, without limitation, charges and fees incurred by ESi resulting from the cancellation/rescheduling of scheduled air travel or similar services based on changes requested by Client to the applicable dates for performance of the relevant Services.

2.22 "User" means an authorized employee, contractor or affiliate of Client to whom Client has provided a user account for the Software; User includes Administrators and Sub-Administrators.

3. **Ownership and Licensing Authority.**

3.1 Ownership of, and title to, the Software and Documentation shall be held by ESi and its licensor(s) and is protected by United States law and applicable international laws, treaties and conventions regarding intellectual property. ESi and its licensor(s) shall retain all rights, title and ownership not granted herein to all copies of the Software and Documentation provided as part of the Subscription under this Agreement. "WebEOC" is a registered trademark of ESi Acquisition, Inc., all rights reserved.

3.2 ESi is authorized to redistribute, license and/or provide subscriptions to any third-party software delivered with the Software and Documentation provided under this Agreement. The owner of such third-party software shall have the right to enforce this Agreement to the extent permitted by applicable law.

4. **Subscription.** ESi grants to Client, and Client accepts, subject to the following terms and conditions and payment of the applicable Fees, a limited non-exclusive, non-transferable, and non-sublicensable revocable term Subscription according to the terms stated herein, to use and access the Software and Documentation for the stated Term. Except as expressly authorized in this Agreement, Client shall not rent, lease, loan, sell, sublicense, distribute, transfer, copy, reproduce, display, modify, provide commercial hosting services, time share or dispose of the Software or Documentation or any part thereof, use the Software to provide any services to third parties or otherwise use the Software and Documentation to generate commercial revenue.

5. **Term.** The "Term" of this Agreement shall commence on the Effective Date (as defined on page 1) of this Agreement and shall continue through the sooner to occur of: (i) termination of this Agreement pursuant to the terms hereof, or (ii) expiration of the "Term" of the Subscription to the Software as set forth in Exhibit A (Exhibit A is herein incorporated and made part of this Agreement by this reference).

6. **Permitted Uses.** Client's, and its User's, access and use of the Software shall be limited and subject to the following terms and conditions:

    a. One (1) Instance of the Software on one (1) Machine. As used herein, "Machine" means a single laptop, personal computer or web server, or a combined web and database server or multiple load-balanced web servers, configured to point to a single database and database server that is used operationally or "in production" ("Instance").

    b. Client may use the Software and Documentation solely for Client's internal business purposes.

    c. Client also may make one (1) copy of the Software for back-up or archival purposes.

    d. Client also may use the Software to support "non-production" software development cycle activities if a non-production Subscription is purchased, as set forth in Exhibit A hereto.

    e. If Client requires or desires operational use of more than one Instance of the Software, an additional Subscription Fees shall be required.

    f. The Client's storage capacity is set to the maximum as set forth on Exhibit A hereto. ESi shall have the right to conduct regular audits of Client compliance with the storage capacity permitted under this Agreement. In the event Client's storage usage exceeds such capacity, Client will receive a warning notice (via email being sufficient) from ESi and Client shall promptly remove the excess data from

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the Hosted System (as defined on Exhibit D) causing the capacity excess or Client shall promptly purchase from ESi additional storage capacity in sufficient quantity at ESi's then current rates for such additional storage; *provided, however,* if Client does not either remove such data or purchase the additional storage capacity within the time period specified in the warning notice (if no time period is specified in the notice, then thirty (30) calendar days shall apply), then ESi shall be entitled to delete the Client's Data within the Hosted System on a first in-first out approach, without any liability to ESi.

g.   The Subscription is on a named and active user basis. Each Administrator, Sub-Administrator, and User shall have a unique user account. User accounts, usernames and passwords shall not be shared. Client may provide access to the number of Administrators, Sub-Administrators, and Users set forth in Exhibit A to this Agreement. User counts are based on the number of unique logins each month. ESi shall have the right to conduct regular audits of Client compliance with the number of Users permitted under this Agreement. Client agrees to provide ESi with the information required, if any, for ESi to complete such audits. Such audits shall be conducted at ESi expense, except that Client shall be responsible for reimbursing ESi for all reasonable audit expenses if Client shall be found in violation of the User limits set forth in this Agreement. Client shall be in violation of User limits if the number of Users during any month covered by the audit is greater than the number of Users permitted in Exhibit A and such increase in Client is not supported by a Surge Capacity Plan, and ESi shall invoice, and Client shall pay, for the amounts for such excess usage at ESi's then current rates for the usage above the Client's User limits set forth on Exhibit A.

h.   Administrators, Sub-Administrators, and Users shall have different rights to access the Software as follows:

     i.   Administrators may access all features of the Software. Certain features of the Software may only be accessed by named users who are granted status as an Administrator ("Administration Tools"). Administration Tools include, without limitation, the following: creation and administration of user accounts; creation and subsequent editing of incidents; software configuration; use of the WebEOC BoardBuilder tool; installation and administration of board sets, plug-ins, modules, interfaces and Software Updates; and access to the Software's Application Programming Interface.

     i.   "Sub-Administrator" is a subset of Administrator Users as set forth in this subsection (ii) and such Sub-Administrators are only active if set forth on Exhibit A to this Agreement and if Client has subscribed to the WebEOC Enterprise Software. Sub-Administrator rights also shall be available solely to support management of Sub-Organizations. Sub-Administrators may access the following Administration Tools: creation of user accounts; management of user accounts including definition of roles and permissions; and creation and subsequent editing of incidents. Maintenance of Sub-Administrator rights requires the purchase of an annual "Enterprise" Software Support Plan. If Client elects to discontinue the required Software Support Plan, access to Sub-Administrator features and any other benefits of Enterprise which ESi may elect to make available from time to time shall be discontinued.

     ii.   Users may not be granted access to any Administration Tools, except that Administrators may grant designated Users rights to create or edit incidents and to add or edit maps in MapTac™.

i.   Except where otherwise provided in this Agreement, rights to access and use Administrative Tools are given exclusively to the Client and Client may not grant such rights to any third party.

j.   Client may provide its consultant(s) or independent contractor(s) with access to the Software and Documentation, provided that such consultants or independent contractors are using the Software and Documentation exclusively for the benefit of the Client. Client shall be responsible for compliance by its consultants and independent contractors with the terms and conditions of this Agreement.

k.   If Client has subscribed to the WebEOC Enterprise Software or the WebEOC Professional Software, then Client may use the WebEOC BoardBuilder tool to copy, modify and create WebEOC forms and templates ("Status Boards") and Client may distribute, in printed form or as electronic media, the Status Boards to Client's authorized users, provided that such Status Boards are used exclusively for the internal business purposes of Client. Status Boards shall be considered Derivative Work(s) of the Software and Client shall not sell, resell, license or otherwise transfer for value any Derivative Work(s) created using the WebEOC BoardBuilder tool, and Client shall not distribute such Derivative Work(s) as part of any product or service for value to any third party. Any Derivative Work(s) prepared by Client shall remain subject to the terms of this Agreement and shall clearly display the following copyright notice to properly acknowledge the proprietary rights of ESi and its third-party licensors: "This work includes the intellectual property of ESi Acquisition, Inc. and its licensors and is provided under subscription/license. Copyright © 2002-2019, ESi Acquisition, Inc. and its licensors. All rights reserved."

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l. Client may, at its option and according to the terms of the ESi standard price list, obtain a Disaster Recovery Software Subscription to support replication of an active, source server to one or more redundant ("Target") servers which may be placed in use to support disaster recovery or fail-over activities. A Disaster Recovery Software Subscription is required for each Target server. A Disaster Recovery Software Subscription may be used to operate an "in production" instance of the Software only when the source server is inactive or inoperable; only one instance of the Software shall be active at any one time. Client is not required to obtain additional subscriptions for Software plug-ins, modules or interfaces installed on a redundant non-production instance.

m. Permitted uses of WebEOC Fusion Software vary from the terms set forth in subsection (a) through (l) of this Section 6; in the event Client has purchased WebEOC Fusion Software, this subsection 6(m) shall apply: Client may install and place in production one (1) copy of WebEOC Fusion Software on one (1) source server and one (1) target server. Client may make one (1) copy of the WebEOC Fusion Software for back-up or archival purposes, or Client may install a second copy of the WebEOC Fusion Software on a second Machine if only one (1) copy of the WebEOC Fusion software is in use at any one time. There is no limit to the number of the Subscription Instances of WebEOC Fusion Software® (or number of WebEOC Fusion Software clients) which may be connected by a single instance of WebEOC Fusion Software, provided that (i) only the Client of the WebEOC Fusion Software has administrative privileges and administrative access to the WebEOC Fusion Software and (ii) the Client has paid to ESi all applicable connection fees.

n. A high-speed Internet connection is required for proper transmission of the Client Data into the Hosting Services and Software. Client, at its sole cost and expense, is solely responsible for procuring and maintaining the network connections that connect the Client network to the Hosting Services and Software, including, but not limited to, "browser" software that supports protocols used by ESi, and to follow procedures for accessing services that support such protocols. ESi is not responsible for notifying Client and its Users of any upgrades, fixes, or enhancements to any such software or for any compromise of data, including Client Data, transmitted across computer networks or telecommunications facilities (including but not limited to the Internet) which are not owned, operated, or controlled by ESi. ESi assumes no responsibility for the reliability or performance of any connections as described in this subsection.

o. Client and its Users agree to not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share, or otherwise commercially exploit or make the Software and Hosting Services available to any third party, other than authorized Users in furtherance of Client's internal business purposes as expressly permitted by this Agreement; (ii) use the Software and Hosting Services to process data on behalf of any third party other than Client; (iii) modify, adapt, or hack the Software and Hosting Services, or otherwise attempt to gain unauthorized access to the Software and Hosting Services or related systems or networks; (iv) falsely imply any sponsorship or association with ESi, (v) use the Software and Hosting Services in any unlawful manner, including but not limited to violation of any person's privacy rights; (vi) use the Software and Hosting Services to send unsolicited or unauthorized junk mail, spam, pyramid schemes, or other forms of duplicative or unsolicited messages; (vii) use the Software and Hosting Services to store or transmit files, materials, data, text, audio, video, images, or other content that infringes on any person's intellectual property rights; (viii) use the Software and Hosting Services in any manner that interferes with or disrupts the integrity or performance of the Software and Hosting Services and its components; (ix) attempt to decipher, decompile, reverse engineer, or otherwise discover the source code of any software making up the Software and Hosting Services; (x) use the Software and Hosting Services to knowingly post, transmit, upload, link to, send, or store any content that is unlawful, racist, hateful, abusive, libelous, obscene, or discriminatory; (xi) use the Software and Hosting Services to store or transmit any "protected health information" as that term is defined in U.S. 45 C.F.R. 160.103 or "personal data" as that term is utilized in the Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation); (xii) use the Software and Hosting Services to knowingly post transmit, upload, link to, send, or store any viruses, malware, trojan horses, time bombs, or any other similar harmful software; or (xiii) try to use, or use the Software and Hosting Services in violation of this Agreement.

7. **Protection of Software.** Client agrees to take all reasonable steps to protect the Software and Documentation from unauthorized copying or use. The Software source code represents and embodies trade secrets of ESi and/or its third-party licensors. The Software source code and embodied trade secrets are not licensed to the Client. Client agrees not to disassemble, decompile or otherwise reverse engineer the Software, use reflection or other mechanism to view, interpret, translate or try to understand the structure of the Software, or otherwise attempt to discover the source code and/or the trade secrets contained in the source code, and Client will not allow third parties to do so. Client may not, nor allow third parties to, modify or alter the Software in any way.

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8.   **Confidentiality. Subject to chapter 119, Florida Statutes, the parties agree as follows:**

    8.1   Confidential Information Defined. During the Term of this Agreement and in connection with each party's performance of their respective duties and obligations hereunder and thereunder, each party will disclose to the other ("Discloser") and the other party shall receive ("Recipient") certain Confidential Information of the Discloser. The term "Confidential Information" shall mean any and all information that the Discloser discloses to the Recipient in connection with or related to this Agreement, whether disclosed verbally, electronically, visually, or in a written or other tangible or intangible form, including, but is not limited to, trade secrets, customers, customer lists, intellectual property, computer programs, software, documentation, formulas, data, inventions, techniques, financial, marketing or product development plans, personnel, audit results, designs, performance data, as to ESi, the ESi Technology and any other deliverables (including, without limitation, data, information, computer code and reports) provided in connection with the Software, and, as to Client, the Client Data, as well as any other information that the Discloser clearly communicates to the Recipient as confidential.

    8.2   Duties with Regard to Confidential Information. The Recipient agrees that it will only use the Discloser's Confidential Information in the performance of its obligations hereunder or as otherwise expressly provided in this Agreement, and that it will only disclose the Discloser's Confidential Information only to those of its directors, officers, employees, consultants, agents, independent contractors, and professional advisers who need to know such information and who are subject to written agreements with the Recipient sufficient to enable the Recipient to require such persons to comply with the Recipient's confidentiality obligations hereunder. The Recipient agrees that it will treat all of the Discloser's Confidential Information with the same degree of care (but no less than reasonable care) as it accords its own confidential information.

    In the event of a breach of Client Data by ESi or its personnel, employees, agents, contractors or subcontractors ("ESi Representatives") performing ESi's obligations set forth in this Agreement, ESi shall, at its sole cost and expense, defend the State of Florida, Client, and their officers, agents and employees from third party claims and actions arising from or resulting from ESi's or the ESi Representative's breach of ESi's obligations in this Agreement and will pay amounts awarded to such third party by a court of appropriate jurisdiction to the extent based on such claims or otherwise included in a settlement of such claims approved by ESi, provided that: (1) Client notifies ESi in writing promptly upon becoming aware of such a claim; (2) ESi has sole control of the defense of such claims and all related settlement negotiations; and (3) Client, at ESi's expense, provides ESi with reasonable assistance in the defense and settlement of such claims. ESi's obligations to defend and pay under this subsection 8.2 shall not apply to claims based on the act or omission of the State of Florida, Client, and their officers, agents and employees.

    Notwithstanding the foregoing or ESi's obligations elsewhere in this Section, Client understands that ESi does not require any information for the performance of Services hereunder, and that ESi cannot guarantee the security of Client Information when added to the Juvare Exchange, stored on Client's applicable equipment and hardware or transmitted or accessible when using the internet or other services providers. ESi shall not be liable or responsible to Client or any other party for any losses, damages, claims, costs or other obligations arising out of or relating to any unauthorized access to, disclosure or use of information stored by Client on the System, including, without limitation, within the Juvare Exchange, or while such information is transmitted or accessible through the Software, the internet, or services providers. Additionally, ESi shall not be responsible for any breach of security or confidentiality caused by Client's failure to maintain the confidentiality and control of its user identification numbers or passwords related to its use of the Software provided hereunder.

    8.3   Exclusions from Confidential Information. Confidential Information does not include information that (a) is or becomes generally available to the public other than as a result of an unauthorized disclosure by the Recipient or its personnel; (b) has been or is obtained by the Recipient from an independent source without accompanying obligations of confidentiality; (c) is independently developed by the Recipient without reliance in any way on the Discloser's Confidential Information; or (d) has been approved for unrestricted release by the Discloser in writing. Additionally, the Recipient may disclose the Discloser's Confidential Information where the Recipient is required by law to disclose information that is otherwise Confidential Information, provided (to the extent not prohibited by law) the Recipient has first notified the Discloser in writing as soon as is commercially reasonable of such requirement to disclose the Discloser's otherwise Confidential Information in order to permit the Discloser to seek confidential treatment of such information.

    8.4   Protection of Confidential Information. Notwithstanding the "Dispute Resolution" Section of this Agreement, the Recipient acknowledges that the Discloser shall have the right to take all reasonable steps to protect the Discloser's confidential and proprietary interests, including, but not limited to, injunctive relief in a court of law or equity and any other remedies as may be available at law or in equity in the event the Recipient does not fulfill its obligations under this Section.

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8.5   Survival of Confidentiality Obligations. Subject to the applicable Florida statutory provisions, each party's obligations of confidentiality pursuant to this Section for all Confidential Information disclosed between the parties during the term of this Agreement shall survive the expiration or termination of this Agreement as follows: (i) for Confidential Information consisting of trade secrets, for so long as such information remains a trade secret of the Discloser or for five (5) years following the expiration or termination of this Agreement, whichever is longer, (ii) for Confidential Information consisting of the Discloser's customer information or ESi's suppliers' information, indefinitely, and (iii) for all other Confidential Information, for five (5) years following the expiration or termination of this Agreement.

8.6   Termination of This Agreement. Upon termination of this Agreement or upon the Discloser's written request, the Recipient agrees to terminate all use of the Discloser's Confidential Information and to either return to the Discloser all copies of the Discloser's Confidential Information in its possession or under its control or to provide the Discloser with a written notice from one of the Recipient's authorized representatives certifying that all copies of the Discloser's Confidential Information in the Recipient's possession or control have been destroyed; *provided, however*, the Recipient may (at its option, but not its obligation) keep a copy of the Discloser's Confidential Information in its archives, and the provisions of this Section shall continue with respect to such Confidential Information. Notwithstanding the foregoing, in no event shall any Client Confidential Information, including, without limitation, the Client Data, that is entered into or shared in the Juvare Exchange be returned to Client or removed from the Juvare Exchange; Client understands and acknowledges that any Client Confidential Information, including, without limitation, the Client Data, entered into the Juvare Exchange is visible and viewable by other Juvare Exchange users and is not secure or held confidential.

8.7   Public Records. ESi shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by ESi in conjunction with this Agreement. In accordance with section 119.0701(2), Florida Statutes, a vendor providing contractual services and acting on behalf of the Client must:

(i) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.

(ii) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(iv) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (850) 815-4156, Records@em.myflorida.com, or 2555 Shumard Oak Boulevard, Tallahassee, FL 32399.

9.   **Proprietary Interests.** The Software and Documentation, and all copies thereof, shall remain the exclusive property of ESi and/or its third-party licensors. All applicable rights to copyrights, trademarks, logos, patents and other intellectual property shall remain vested in ESi and/or its third-party licensors. Client shall not claim, register, alter or modify, any interest in such copyrights, trademarks, patents or other intellectual property, nor shall Client nor attempt to do any of the foregoing. Client shall not translate any of the ESi trademarks into any other language or alphabet. Notwithstanding the foregoing, Client shall always have title to data input and output arising out of the use of the Software, and any computer programs developed by or for Client using output of the Software as input to another source, and which do not include any logic and code of the Software, and such shall remain the exclusive property of the Client. Client acknowledges and agrees that ESi may seek equitable relief at any time to remedy a violation or threatened violation of the restrictions set forth herein regarding the use and protection of the Software and Documentation.

10.   **Copying of Documentation.** Client may make as many copies of the Documentation as necessary for Client's internal purposes, provided the Client shall not modify or alter the content or appearance of the Documentation, modify or alter the appearance of any ESi trademark or logo in the Documentation, or eliminate any references to ESi, WebEOC or other ESi Software in the Documentation and provided that the Client shall reproduce and distribute the ESi copyright and notices page contained in the Documentation with all such copies and maintain the confidentiality of the copies and destroys or returns such copies in accordance with Section 8 (Confidentiality) above.

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11. **Support Services.** During the Term of this Agreement and provided Client is not in violation of this Agreement (including, without limitation, paying for the Subscription Fees), ESi will provide Support Services (all as further defined in Exhibit B hereto; Exhibit B is herein incorporated and made part of this Agreement by this reference) for the Software during the Standard Business Hours consisting of the following: (i) ESi will use reasonable efforts to maintain the Software to comply with the applicable Documentation in all material respects, and (ii) if and when made generally available through Support Services to ESI's other customers receiving Support Services, providing subsequent releases and versions of the Software for use consistent with ESI's then current policies. All Software Updates received by Client shall be subject to the terms of this Agreement. Support Services shall not include, and ESi shall not be responsible for, failures of the Software to perform consistent with the Documentation, specifications, requirements and other details set forth in Exhibit A or any subsequent amendments or quotes hereto in all material respects resulting from or caused by Client, Client's hardware and equipment, Client's connection to the Software, third party service providers, including, without limitation, communications services providers, or otherwise disclaimed elsewhere in this Agreement.

12. **Hosted Services.** During the Term of this Agreement and provided Client is not in violation of this Agreement, ESi will provide Hosted Services, as set forth in Exhibit D hereto, for the Software during the Standard Business Hours. Exhibit D is herein incorporated and made part of this Agreement by this reference.

13. **Consulting Services.** ESi will provide the Consulting Services set forth in Exhibit E hereto for the Fees for such professional services as set forth in Exhibit C and Exhibit E, if any. Exhibit E is herein incorporated and made part of this Agreement by this reference.

14. **Warranty.**
    14.1 Warranty by ESi. For new Software provided pursuant to the Subscription purchased by Client pursuant to this Agreement (for instance, merely adding additional Users to the Subscription for use with the Software would not be considered new Software), ESi warrants that, for a period of sixty (60) days from the Installation (the "Software Warranty Period"), the Software, when used in accordance with the applicable Documentation and this Agreement, will perform in compliance with the specifications for such Software as set forth in the Documentation in all material respects. In the event the Software fails to perform as warranted herein during such Software Warranty Period, and ESi receives written notice of such failure from Client following the first occurrence of such failure (and in all events prior to the expiration of the Software Warranty Period):

        a. ESi shall use all reasonable efforts to correct any reproducible error condition reported to ESi in such written notice during the Software Warranty Period as soon as reasonably possible (not to exceed 45 days) following receipt of such written notice;

        b. if ESi is unable to resolve such failure to comply with the warranty as provided above through either a correction or reasonable work around, Client may terminate the applicable order only (in its entirety) without penalty or liability for any amounts payable (other than charges and fees incurred prior to the effective date of such termination) on written notice to ESi that is received by ESi within 3 business days of the expiration of the 45 day "cure period" for any failure to comply with the warranty, and ESi shall, within thirty (30) days following the effective date such termination, refund to Client the pre-paid unused amounts paid by Client pursuant to the terminated order during the 60 day period prior to the effective date of such termination. Additionally, to the extent not already waived or expired as provided above, all rights of termination by Client pursuant to this Section shall expire to the extent ESi has not received a written notice of termination pursuant to this Section prior to the expiration of the Software Warranty Period;

        c. In the event of termination of an order as provided in this Section, Client shall not be obligated to pay any additional charges or fees payable pursuant to such terminated order for the period after the effective date of such termination; and

        d. The limited warranty provided hereunder (including ESi's obligations to restore Software and provide corrections and Client's rights of termination pursuant to this Section) shall not apply to Software to the extent it has been modified by other than ESi (or its contractors or agents), modified at Client's request, or not used in accordance with the requirements of this Agreement, the Documentation, specifications, and the Quotes or order forms. ESi does not warrant that the Software will operate uninterrupted or error free, that all errors can be corrected, or that it will satisfy Client's requirements.

This Section sets forth Client's sole and exclusive remedy, and ESi's entire liability, for the failure of the Software to satisfy the warranty described in this Section. Any refunds pursuant to this Section shall be applied against any limitations of liability set forth in this Agreement.

ESi shall have no obligations pursuant to this Section for claims under this Section for which Client does not provide ESi written notice prior to the expiration of the Software Warranty Period.

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In addition to the terms above, any termination of an initial Quote or Order pursuant to this Section shall also terminate this Agreement.

14.2 Warranty by Client. Client represents and warrants that (a) the performance of its obligations and use of the Software by Client and its Users, including, without limitation, any Administrators or Sub-Administrators, if any, will not violate any applicable laws or regulations, ESi's rules and regulations or cause a breach of any agreements with any third parties; (b) it will not interfere with ESi's systems or the use of any services or systems by other ESi's clients; (c) it will not provide or enter any Client Information or Client Data into the Software or Systems that may or does contain protected health information under Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); (d) it will not provide or enter any Client Information or Client Data into the Software or Systems that may or does contain personal data as regulated by the General Data Protection Regulation 2016/679 (the "GDPR"); and (e) it will not send any notifications, be it SMS, email, text, pager alerts, phone calls, using the Software or Systems without obtaining the consent of any User or recipient as required by applicable laws, statutes, or regulations. In the event of any breach of any of the foregoing Client warranties, in addition to any other remedies available at law or in equity, ESi will have the right, in its sole reasonable discretion, to terminate or suspend immediately any related Software if deemed reasonably necessary by ESi to prevent any harm to ESi, its Clients and/or its business. ESi will provide to Client notice (email being sufficient) of such termination or suspension of the Software and, in ESi's sole discretion if an opportunity to cure the breach if practicable depending on the nature of the breach, ESi may provide the Client with an opportunity to cure such breach and if cured, in ESi's full satisfaction, ESi may restore the Software or access to the Software.

15. **Disclaimers.**

15.1 ESI DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SOFTWARE AND/OR ACCOMPANYING DOCUMENTATION. NO ORAL OR WRITTEN ADVICE OR INFORMATION PROVIDED BY ESI OR ANY OF ITS AGENTS, EMPLOYEES OR CONTRACTORS SHALL CREATE A WARRANTY, AND CLIENT IS NOT ENTITLED TO RELY ON ANY SUCH ADVICE OR INFORMATION. ESI EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED OR FREE OF ERRORS.

15.2 THE SOFTWARE AND ANY SERVICES THERETO ARE NOT COMPLIANT WITH THE REQUIREMENTS OF THE HIPAA.

15.3 The Software is an information management application. The software is not fault-tolerant and is not designed, manufactured, or intended for use or resale in hazardous environments that require fail-safe performance such as in the operation of nuclear facilities, aircraft navigation or communications systems, air traffic control, emergency response, terrorism prevention or response, life support or weapons systems (collectively "High Risk Activities"), the failure of which could lead to death, personal injury, or severe physical or environmental damage. ESI EXPRESSLY DISCLAIMS ANY WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES. Client agrees to not use the Software for High Risk Activities. Client waives sovereign immunity not to exceed the extent authorized by section 768.28, Florida Statutes.

16. **Fees and Payment Terms.**

16.1 Payment; Late Payment. All amounts are due and payable by Client to ESi as set forth in Exhibit C hereto (unless alternative payment terms are mutually agreed up on by the parties). Exhibit C is herein incorporated and made part of this Agreement by this reference. Any payments not received by ESi within thirty (30) days after the date of the applicable invoice (or as otherwise due under the applicable Exhibit C or Quote) will be considered past due and, in accordance with section 215.422(1), Florida Statutes, Client will pay interest on any such amounts at the rate provided by section 215.422(3)(b).

16.2 Travel Expenses and Additional Charges. To the extent that the Software and services provided hereunder may require ESi to travel and subject to applicable Florida statute, Client shall pay Travel Expenses reasonably incurred by ESi in connection with such travel. ESi shall invoice Client for Travel Expenses on a monthly basis as incurred. Travel Expenses are in addition to any charges set forth in this Agreement or any Quote hereto. Other additional charges may be required should Client elect to: (a) use the Software on more than one (1) Instance; (b) increase the number of named users who may access the Software; (c) increase the number of non-production instances of the Software; (d) additional Software; (e) upon renewal; (f) increase storage capacity; or (g) as otherwise required by the Agreement.

16.3 Renewal Charges. At least sixty (60) days prior to the expiration of the Initial Period (as defined in Exhibit A) or a then current Renewal Period, ESi may notify Client of the current fees for Software and Support Services, and invoice Client for such fees for the Renewal Period so that such amount is due and payable prior to the commencement of such Renewal Period. ESi shall be entitled, in its sole discretion, to increase the fees for the Software and Support Services.

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16.4 Suspension of the Software, Services and Support Services. Without limitation as to any other rights or remedies of ESi under this Agreement, ESi reserves the right to immediately suspend Client's access to and use of the Software and the Services (including, without limitation Support Services), without notice to Client, if any charges or fees payable to ESi are past due and not paid within the time frame set forth in Section 16.1 or elsewhere in this Agreement or an Exhibit, Statement of Work or Quote hereto, as applicable. Client agrees that ESi shall have no liability to Client, and Client waives any claim or action against ESi in the event of suspension or termination of access to or use of the Software and the Services for Client's failure to timely pay charges. Client's payment obligations shall continue during any period of suspension pursuant to this Section.

16.5 Taxes. Client is exempt from State of Florida sales taxes pursuant to section 212.08(6)(a), Florida Statutes. Client will provide ESi with a valid exemption certificate.

17. **Limitations of Liability.**

17.1 CLIENT ENJOYS SOVEREIGN IMMUNITY AS A STATE ENTITY PURSUANT TO FLORIDA STATUTES. ANY WAIVER OF SOVEREIGN IMMUNITY IS LIMITED BY SECTION 768.28, FLORIDA STATUTES.

17.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR ANY EXHIBITS OR ATTACHMENTS HERETO AND TO THE GREATEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, ESI (INCLUDING ITS AFFILIATES) SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY EXHIBIT, QUOTES OR ORDERS HEREUNDER (HOWEVER ARISING, UNDER ANY THEORY INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, CONTRACT OR STRICT LIABILITY), INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR INTERRUPTED COMMUNICATIONS, LOST DATA, LOST REVENUE, LOST PROFITS, LOSS OF TECHNOLOGY, LOSS OF RIGHTS OR SOFTWARE OR SERVICES AND/OR DAMAGES THAT RESULT FROM INCONVENIENCE, DELAY OR LOSS OF USE OF ANY INFORMATION OR DATA OR OF THE SOFTWARE OR SERVICES, EVEN IF ESI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN. SUBJECT TO THE FOREGOING AND TO THE GREATEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, FOR THIS AGREEMENT AND EACH QUOTE FOR SOFTWARE OR SERVICES HEREUNDER, IN NO CASE SHALL ESI'S (INCLUDING ITS AFFILIATES) MAXIMUM AGGREGATE LIABILITY DURING ANY TWELVE (12) MONTH PERIOD DURING THE TERM OF THIS AGREEMENT (THE FIRST OF WHICH SHALL COMMENCE ON THE EFFECTIVE DATE OF THIS AGREEMENT) UNDER ANY CIRCUMSTANCES EXCEED THE AMOUNTS ACTUALLY PAID TO ESI BY CLIENT PURSUANT TO THIS AGREEMENT DURING SUCH TWELVE (12) MONTH PERIOD (EXCLUDING TRAVEL EXPENSES). THE PARTIES UNDERSTAND AND AGREE THAT THE LIMITATION OF LIABILITY SET FORTH IN THIS AGREEMENT REPRESENTS A REASONABLE ALLOCATION OF RISKS, AND EACH PARTY EXPRESSLY CONSENTS TO SUCH ALLOCATION. ESI SHALL HAVE NO LIABILITY OF ANY KIND IN THE EVENT CLIENT'S RECORDS OR OTHER DATA SUBMITTED FOR PROCESSING ARE LOST OR DAMAGED.

18. **Termination.**
   18.1 Termination for Cause. This Agreement or any Exhibit or Quotes hereto may be terminated as follows:
   a. by ESi upon the breach by Client of any of its payment obligations under this Agreement or any Quote or Exhibit hereto, which breach has not been cured within five (5) days after Client has received written notice thereof,
   b. by one party upon the breach by the other party of any of such other party's material obligations under this Agreement or any Quote or Statement of Work hereto that has not been cured within thirty (30) days after the breaching party has received written notice thereof (*provided, however,* that there shall be no cure period in the event of a breach by Client of its obligations related to ESi's intellectual property), or
   c. by ESi if all or a substantial portion of the assets of Client are transferred to an assignee for the benefit of creditors or Client files or has filed against it a petition for liquidation under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days.

If the basis for termination for cause applies only to a specific Quote or Statement of Work, the non-breaching party may elect to terminate only the affected Quote and associated Statement of Work, in which case this Agreement and other Quotes will remain in full force and effect. A breach of the terms of this Agreement or a Quote by a User shall be deemed to be a breach of the terms of this Agreement by Client.

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18.2   Effective Date of Termination for Cause. Termination for cause based upon 18.1(a) above shall be effective on the 6th day after Client received the original written notice of breach if cure is not made or if some interim arrangement has not been reached between the parties (and agreed in writing) during the five (5) day cure period. Termination for cause based upon 18.1(b) above shall be effective on the 31st day after the breaching party received the original written notice of breach if cure is not made or if some interim arrangement has not been reached between the parties (and agreed in writing) during the thirty (30) day cure period; provided, however, if a breach under 18.1(b) is not subject to cure (e.g., disclosure of a party's Confidential Information), termination for cause is effective immediately upon the party providing written notice of termination to the breaching party consistent with the notices provision of this Agreement. Termination for cause based upon 18.1(c) above shall be effective immediately after the assignment for benefit of creditors has been made or the filing of a petition for liquidation under bankruptcy or other insolvency laws and such have not been dismissed, dissolved or the petition lifted or stayed.

18.3   Termination for Lack of Appropriation of Funds. The Client's performance and obligation to pay under this Agreement is contingent upon a funding appropriation by the Legislature. In the event such appropriation is not made by the Legislature, Client shall be entitled to terminate this Agreement by providing ESi with written notice of such lack of appropriation of funding and Client's election to terminate this Agreement. There shall be no refund by ESi to Client in the event of the termination of this Agreement pursuant to this subsection 18.3.

18.4   Effects of Termination. Termination of this Agreement shall result in the termination of all outstanding Quotes, Statements of Work and Exhibits, and termination of all outstanding Quotes, Statements of Work and Exhibits shall result in the termination of this Agreement. Upon termination of this Agreement and/or any Quotes, Statements of Work and Exhibits for any reason, any amounts owed to ESi under this Agreement or any Quotes, Statements of Work and Exhibits, regardless of whether not yet due and payable, will be accelerated and deemed immediately due and payable (including, without limitation, the remaining balance of unpaid fees for professional services and Travel Expenses); provided, however, in the event that Client terminates this Agreement due to a material breach by ESi or due to a lack of appropriation of funds pursuant to subsection 18.3 above, Client shall no longer be obligated to pay such amounts. All Subscriptions, including, without limitation, Services and all Software use and access, granted under this Agreement and all Quotes, Statements of Work and Exhibits hereto shall immediately terminate upon termination of this Agreement. All Subscriptions, including, without limitation, Services and all Software use and access, granted pursuant to an applicable Quotes, Statements of Work and Exhibits shall terminate upon the expiration or termination of the applicable Quotes, Statements of Work and Exhibits. Upon termination of this Agreement, ESi will immediately cease performing all Services and terminate Client's and its User access to the Software. In accordance with Florida Public Records Law, ESi shall be obligated to retain records as applicable. Notwithstanding the foregoing, in no event shall any Client Confidential Information, including, without limitation, the Client Data, that is entered into or shared in the Juvare Exchange be returned to Client or removed from the Juvare Exchange; Client understands and acknowledges that any Client Confidential Information, including, without limitation, the Client Data, entered into the Juvare Exchange is visible and viewable by other Juvare Exchange users and is not secure or held confidential. If Client receives Hosted Services from ESi, the following termination provisions also apply upon termination of this Agreement for any reason:
   a.   Client's access to the Hosted Services (including, without limitation, all access to the hosted environments and data) shall be suspended;
   b.   Client shall immediately surrender to ESi any Internet protocol numbers, addresses or ESi-owned domain names assigned to Client in connection with the Hosted Services delivered hereunder;
   c.   Unless other arrangements are requested by Client within five (5) days of the effective date of termination and provided Client has paid all outstanding amounts due to ESi under this Agreement, for the five (5) day period following the effective date of termination of this Agreement ESi shall provide Client with access to its data or information within the Hosted Services for Client to download the Client Data or information; and
   d.   In accordance with Florida Public Records Law, ESi shall be obligated to retain records as applicable and as permitted therein, any and all Client Data shall be overwritten, erased, encrypted or otherwise rendered unrecognizable.

18.5   Other Termination/Suspension of Services. In addition to all other remedies to which it may be entitled hereunder, ESi shall have the right, without notice to Client, to immediately suspend the provision of any and all Software and Services hereunder, including, without limitation, access to the Software and Support Services, in the event of (i) any breach or threatened breach of this Agreement or any Quotes, Statements of Work and Exhibits hereto by Client or its Users or contractors, (ii) any requirement or direction by any legal or regulatory body having jurisdiction over Client, ESi or its suppliers or third party service providers, or (iii) any change in law that renders ESi provision of the Software unlawful or otherwise non-compliant with applicable

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law. Client's payment obligations shall continue during any period of suspension pursuant to this Section. Client agrees that ESi shall have no liability to Client, and Client waives any claim or action against ESi, in the event of termination of access to the Software as provided in this Agreement. ESi shall make reasonable efforts to restart such access upon Client's cure or correction of the event of default or breach unless it has already terminated this Agreement or any Quotes, Statements of Work and Exhibits as provided hereunder. Client shall reimburse and pay to ESi all charges, expenses and fees incurred by ESi or payable by ESi to third parties as a result of such suspension of Software or reconnection/restart of such access to such Software.

18.6   Reserved.

18.7   Survival. The provisions of this Agreement that, by sense and context of the provision, are intended to survive performance by either or both parties shall also survive the completion, expiration, termination or cancellation of this Agreement.

18.8   The termination of this Agreement shall not relieve the Client of its obligation to pay any Charges and Fees incurred hereunder prior to the effective date of such termination or expiration or that result or arise from the termination of this Agreement (as provided in herein).

19. Indemnification.

19.1 ESi shall, at ESi's sole cost and expense, defend Client against a third party claim that the Software provided hereunder by ESi infringes such third party's U.S. patent or copyright (or other jurisdiction as agreed to in writing by both parties), and ESi shall pay damages that a court finally awards to such third party to the extent based on such claims or is agreed to by ESi in settlement of such claims, provided that (i) Client provides ESi prompt written notice of such claims, (ii) ESi controls the defense and settlement of such claims, and (iii) Client, at ESi's expense, reasonably cooperates with ESi in the defense and settlement of such claims. ESi's obligation hereunder shall not extend to a claim to the extent such claim is based on any alleged infringement arising from any (a) infringement or contributory infringement to the extent caused in whole or in part by Client, its Users, agents, representatives, employees or by third parties under Client's direction or control; (b) additions, changes or modifications to the Software by or on behalf of Client except for any additions, changes or modifications made by ESi or its Suppliers on ESi's behalf; (c) incorporation of the Software or any component thereof into any other product or process; or (d) use of the Software other than as permitted by this Agreement or the applicable Quote or Order. Should the Software become, or in ESi's opinion, be likely to become the subject of any such suit or action for infringement for which ESi is responsible under this Section, or if Client is enjoined from using the Software, ESi shall, at ESi's sole option and expense, (x) procure the right to continue providing the Software; (y) replace or modify such Software so that they become non-infringing and functionally equivalent; or (z) may terminate that portion of the allegedly infringing Software on written notice to Client. This Section states ESi's entire liability for infringement claims relating to the Services, Software, or Support Services.

19.2   By Client. Client waives sovereign immunity not to exceed the extent authorized by section 768.28, Florida Statutes.

20. Export Controls. Client acknowledges that the Software and Documentation are subject to United States export laws. Client shall not, nor shall Client authorize or permit its directors, employees, consultants, independent contractors or other persons, to export, re-export, disclose or otherwise provide the Software and/or Documentation to any country unless an appropriate license, exemption or authorization has been obtained from the U.S. Government. Client expressly agrees that Client shall not export, re-export, barter, or otherwise provide or disclose the Software and Documentation, in whole or in part, to: (a) any country covered by any United States trade embargo; (b) any person listed on the United States Department of Treasury's list of Specially Designated Nationals; (3) any person or entity listed on the United States Department of Commerce Denied Persons List; (4) any person or entity listed on the United States Department of Commerce Unverified or Entity Lists; (5) any person or entity listed on the United States Department of State Debarred List; or (6) any person or entity where such export, re-export, barter, disclosure or provision violates United State export control law or regulation. Client represents and warrants that neither it nor its directors, employees, consultants, nor any other persons or entities who may gain access to the Software and Documentation through the Client, are persons or entities subject to such U.S. export controls. Client waives sovereign immunity not to exceed the extent authorized by section 768.28, Florida Statutes.

21. U.S. Government Rights.

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a. If Client is an agency, department, or other entity of the United States Government ("Government"), or funded by the United States Government, Client's use, duplication, reproduction, release, modification, disclosure or transfer of the Software, Documentation, technical specifications, or any related materials of any kind, including technical data, is restricted in accordance with Federal Acquisition Regulation ("FAR") 12.212 for civilian agencies, Defense Federal Acquisition Regulation Supplement ("DFARS") 227.7202 for military agencies and the equivalent regulations for the Department of Energy. The use of the Software and Documentation is further restricted in accordance with the terms of this Agreement, or any modification thereto.

b. The Software and Documentation are commercial computer software and commercial computer software documentation. Client shall ensure that each copy used or possessed by or for the Government is labeled with the following: "Manufacturer is ESi Acquisition, Inc., 235 Peachtree Street NE, Suite 2300, Atlanta, GA 30303. ALL RIGHTS RESERVED. PROPRIETARY PRODUCTS." For the purpose of any federal, state or local law, Client agrees that the Software and Documentation are trade secrets and proprietary commercial products of ESi and/or its third-party licensors and are not subject to disclosure.

22. **General Terms and Conditions.**

a. Entire Agreement; Waiver. This Agreement (including any attachments and schedules) and Exhibits, Statements of Work or Quotes set forth the entire understanding and agreement of the parties and supersede any and all oral or written agreements or understandings between the parties, as to the subject matter of this Agreement or the applicable Exhibit, Statement of Work or Quote. Any provisions, terms or conditions on Client's purchase orders which are, in any way, inconsistent with or in addition to the terms and conditions of this Agreement shall not be binding upon ESi and shall have no applicability hereunder. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.

b. Governing Law. This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of Georgia (United States of America) regardless of application of choice of law rules or principles. This Agreement expressly excludes the United Nations Convention on Contracts for the International Sale of Goods. Unless otherwise elected by ESi at its option and in writing for a particular instance, the sole jurisdiction and venue for actions related to the subject matter hereof shall be the state or United States District Court having within its jurisdiction the location of ESi's principal place of business in Atlanta, Georgia. Both parties shall consent to the jurisdiction of such courts and agree that process may be served in any manner allowed by the laws of the State of Georgia or of the United States. If Client acquires the Subscription, or use or access of the Software, in a country other than the United States or its territories, local law and additional Fees to Client may apply. The original language of this Agreement is English. In case of any discrepancies or conflicts between the English text version of this Agreement and any translation, the English version shall prevail.

c. Dispute Resolution. Subject to the "Confidentiality" Section of this Agreement, the parties agree to resolve all differences or disputes arising out of or relating to this Agreement shall be resolved and settled by final and binding arbitration administered by the Judicial, Arbitration, Mediation Services (J.A.M.S.) pursuant to J.A.M.S.' then-current arbitration rules; *provided, however*, that in the event that J.A.M.S. shall be unavailable for any reason, then the arbitration shall be filed with and administered by the American Arbitration Association ("AAA") in accordance with its Commercial Arbitration Rules. Any such arbitration shall be conducted before a single arbitrator in a proceeding held in the Atlanta, Georgia area. The arbitrator shall award to the prevailing party in such arbitration such party's attorneys' charges, arbitrator's charges, J.A.M.S.' charges (or, if applicable, AAA's charges) and other costs incurred by the prevailing party in such arbitration. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq., and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The language of the arbitration shall be English. The arbitrator shall apply the substantive law of Georgia when resolving the differences before them and shall not resort to any conflict of law rule that would call for the application of the law of another jurisdiction. The arbitrator shall take into account principles of legal privileges, such as those involving the confidentiality of communications between a lawyer and a client. The arbitrator shall render any monetary award in U.S. dollars. Notwithstanding the foregoing, the parties reserve the right to seek injunctive relief in a court of competent jurisdiction to protect any intellectual property rights and to prevent the release of Confidential Information.

d. Assignment. Client may not assign or otherwise transfer, in whole or in part, or in any other manner, any rights, obligations, or any interest in or under this Agreement without the prior written consent of ESi and any purported attempt to do so will be null and void. A merger or other acquisition by a third party will be treated as an assignment. ESi may at any time and without Client's consent assign all or a portion of its rights and duties under this Agreement to a company or companies wholly owning, owned by, or in common ownership with ESi provided that ESi provides Client with notice in advance. This Agreement shall be binding on each party's successors and permitted assigns. Additionally, ESi may delegate the performance of certain Services to its Affiliates and third-party providers, provided ESi remains

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responsible to Client for the delivery of such Services and the compliance of such Affiliates and third-party providers with this Agreement.

e. Change in Subcontractors. ESi has the right to change, modify and otherwise convert services providers and subcontractors (including, without limitation, its affiliates) used to provide the Services and terms under which the Services are offered, provided that the basic functionality and quality of the Services will not be materially adversely affected.

f. Interpretation. In the event of a conflict between this Agreement and the terms of any Exhibit, Statement of Work or Quote attached hereto, the terms of the Exhibit, Statement of Work or Quote shall prevail and control the interpretation of this Agreement. The Exhibits, Statement of Work or Quote, attachments, and schedules together with this Agreement shall be interpreted as a single document.

g. Limitations Period. Client agrees not to bring a legal action against ESi more than two years after the later of the date on which the cause of action accrues or the date on which the party discovered or with reasonable investigation should have discovered the cause of action.

h. Prevailing Party. The prevailing party in any arbitration, suit, or action brought by one party against the other party to enforce the terms of this Agreement, any Exhibits or Quotes or Statement of Works hereto or any rights or obligations hereunder, shall be entitled to receive its reasonable costs, expenses, and attorneys' charges of bringing such arbitration, suit, or action.

i. Independent Contractors. The parties are independent contractors, and no agency, partnership, franchise, joint venture or employment relationship is intended or created by this Agreement. Neither party shall make any statement, representation, warranty or other commitment on behalf of the other party.

j. No Licenses. There are no licenses to the Software, express or implied, granted or provided under this Agreement. Neither party shall exceed the scope of the Subscription granted hereunder. ESi reserves all rights not specifically granted to Client.

k. Notice. All notices shall be in writing and sent by certified mail (return receipt requested), overnight courier, or delivered personally to the addresses indicated on the first page of this Agreement for the applicable intended recipient, or such other address as either party may indicate by at least ten (10) days prior written notice to the other party. All notices to ESi shall be directed to the attention of the President/CEO of ESi, with a copy of all such notices also sent to ESi to the attention of ESi's General Counsel at the same address as ESi. Notice will be effective on the date shown on the delivery receipt or, in the case of personal delivery, actual receipt. All notices required pursuant to this Agreement shall be provided in strict compliance with this Section.

l. Severability. If any provision herein is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.

m. No Third-Party Beneficiaries. ESi and Client agree that, except as otherwise expressly provided in this Agreement, there shall be no third-party beneficiaries to this Agreement.

n. Headings. The headings used in this Agreement, Exhibits, Quotes and Statements of Work are solely for convenience and shall not be considered in its interpretation.

o. Authorized Signer. Each party represents that the person signing this Agreement and any Exhibit, Statement of Work or Quotes hereto has been properly authorized and empowered to execute and deliver this Agreement and any Exhibit, Statement of Work or Quotes hereto on behalf of such party. This Agreement becomes null and void if the time between the earlier dated signature and the later dated signature exceeds sixty (60) days, unless waived by ESi.

p. Incorporation by Reference. Any Attachments to this Agreement and any Exhibit, Statement of Work or Quote now existing and hereafter executed or issued that are made pursuant to this Agreement shall be deemed to be part of this Agreement and are incorporated into this Agreement by reference.

q. Amendments. Except as otherwise provided herein or in an applicable Exhibit, Statement of Work or Quote, this Agreement and any Exhibit, Statement of Work or Quote may be changed or modified only in a written document signed by duly authorized representatives of both parties.

r. Counterparts/Duplicate Originals. This Agreement and any Exhibit, Statement of Work or Quote may be executed by the parties in one or more counterparts or duplicate originals, and each of which when so executed shall be an original, but all such counterparts shall constitute one and the same document.

s. Publicity/Use of Trademarks. ESi and Client herein agree to permit the occasional use of each other's name and logo as well as reference to this Agreement and the Services in their respective promotional advertising, press releases and public relations efforts. All such use will be only in a manner that reflects positively upon the other party. ESi may, without obtaining Client's prior written consent, place Client's name on a list of ESi's customers.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate originals by their duly authorized representatives as of the day and year set forth above. This Agreement becomes null and void if the time between the earlier dated signature and the later dated signature exceeds sixty (60) days, unless waived by ESi.

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ESi Acquisition, Inc.   _____ ("Client")

By: {DRAFT}   By: {DRAFT}

Name: Name: _____
_____

Title:_____   Title: _____

Date: Date: _____
_____

/End of the Agreement; Exhibits follow

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EXHIBIT A TO WEBEOC SUBSCRIPTION AGREEMENT

1. **_Term of Hosted Services Subscription_**

The Subscription to the Hosted Services for the Software identified forth on this <u>Exhibit A</u> shall commence on the Agreement Effective Date set forth above and continue thereafter for an initial period of _____ **years** (the "**Initial Period**"). Thereafter, the Subscription to the Hosted Services for the Software shall automatically renew for successive additional 12-month periods (each a "**Renewal Period**"), provided that either party may non-renew the Subscription to the Hosted Services for the Software as of the end of the Initial Period or any subsequent Renewal Period, on not less than 60 days' prior written notice of non-renewal to other party. "**Term**" means the Initial Period and any Renewal Period of the Subscription to the Hosted Services for the Software as set forth herein. Any such non-renewal shall be effective as of the end of the Initial Period or subsequent Renewal Period, as applicable, following the expiration of such 60-day notice period.

2. **_Subscription Software_**

The Subscription includes the following Software:

Number of Instance	Software
#	ESi WebEOC Software

The Subscription includes the following "non-production" Software development cycle activities:

Number of Instance	Purpose
#	Development/testing of Software Updates prior to placing in production (internal use only)
#	Training (internal use only)
#	Disaster Recovery

3. **_Authorized Number of Users_**

Client may provide access to the following number of Administrators, Sub-Administrators, and Users, all authorized on a named and active user basis:

User Type	Qty of Users
Administrators	#
Sub-Administrators	#
Users	# (inclusive of Administrators and Sub-Administrators)

4. **Client Storage Capacity: 50 GB**

5. **_Surge Capacity Plan_**

Surge Capacity Plan has been purchased for Term: [ ] Yes   [ ] No

6. **_Emergency Response Program_**

Emergency Response Program has been purchased for Term: [ ] Yes   [ ] No

/End of Exhibit A

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EXHIBIT B TO WEBEOC SUBSCRIPTION AGREEMENT
DESCRIPTION OF SUPPORT SERVICES FOR THE SOFTWARE

Support Services for the Software shall include the following (in addition to what is stated in the Agreement):
1) Telephone Assistance: Client's "Support Contact" (as defined below) may contact the ESi's Support Center for telephone assistance to seek advice relating to the use of Hosted Services and/or to identify and work to provide a "workaround" for Software problems, if available. Telephone assistance for non-Emergency Support Services shall be available during Standard Business Hours.
2) Problem Assistance: Client may submit problem assistance requests for Software assistance via the published ESi's support escalation procedures. ESi will notify Client if any request is beyond the scope of this Agreement and is, therefore, subject to additional charges. Requests for problem assistance for non-Emergency Support Services shall be available during Standard Business Hours.
3) Software Updates: ESi will update the Software as such updates and future versions of the applicable Software are made generally available to other ESi clients receiving Support Services at no additional charge. Any training required by Client related to such Software Updates and subsequent versions of the Software are provided for an additional charge. ESi shall provide Client with Software Updates to the Software, except for modules, as such Software Updates become available. Software Updates may include correction releases (i.e. patches provided to correct software anomalies), point releases (i.e. modifications to current generation of software including enhancement and improvements), and level releases (i.e. new releases or new generation of software), but shall not include new products, modules or plug-ins released commercially by ESi as independently priced items. For Modules, ESi shall provide Client any Software Updates released by ESi to correct errors affecting the operation of the Module, whether such error is caused by the Module itself or by an error in the Software, and any Software Updates required to maintain compatibility with the Software. ESi shall not provide for any enhancements to the Module.

Process to Obtain Support Services. To obtain Support Services or telephone or problem assistance, Client's designated Support Contact (an assigned Administrator that has completed the Administrator training and is listed as the Support Contact for Client) may contact ESi's Support Center as pursuant to ESi's published support procedures. Such support procedures include contacting ESi's Support Center via telephone, email and, when required, remote session support during Standard Business Hours and during Non-Standard Business Hours.

"Routine" Support Services includes assistance with the use and configuration of the software; assistance with identification and resolution of errors or defects assistance with application and use of new releases; general support for Board Builder and boards built by ESi or an ESi-certified technician; and access to WebEOC best practices, community-use status boards, "help" resources and other content made available through https://www.juvare.com/customers/technical-support, a "client only" web forum. Support Services may be accessed by Client by calling the Support Center via (877) 771-0911 or by electronic mail at support@juvare.com (subject to updates and changes by ESi).

"Emergency" Support Services shall be available 24 hours per day, 365 days per year. Emergency telephone support includes any assistance needed by Client while Software is in use operationally, whether for actual incidents or exercises excluding assistance with GIS interfaces, mapping or products, which is licensed by a third-party vendor is available only during Standard Business Hours. Emergency Support Services may be accessed by calling the Support Center via (877) 771-0911 (subject to updates and changes by ESi).

Client may request performance of additional services by ESi. Such services shall be invoiced separately by ESi at ESi's then current rate for such services and Travel Expenses, if applicable.

Limitations on Support Services. ESi will provide Support Services for only the current version of any Software. Client is obligated to promptly implement all Software Updates, work arounds and error corrections provided by ESi.

Problems or Issues Not Covered by Support Services. The following issues/problems, and all issues or problems caused by the following, are not covered by Support Services:
1. Alterations to the Software not authorized by ESi;
2. Unless otherwise agreed in an Exhibit or Statement of Work hereto, customizations to the Software from consulting or professional services provided by ESi, including applications design or recommendations by Client;
3. Software problems created by Client negligence or fault or failure to comply with any specifications, policies, procedures or requirements for use of the Software, including, without limitation, those set forth in ESi's Terms & Conditions;
4. Software problems caused by or related to a change in Client's service provider or internet access provider. Without limiting the generality of the foregoing, no reconfiguration of the Software due to a change in a service provider is covered under Support Services. Client should notify ESi prior to changing its service provider to enable ESi to provide configuration specifications to the new service provider. Any programming and configuration changes will be charged to Client at the then-current ESi's daily/hourly rates for such reconfiguration services;
5. Software problems that do not significantly impair or affect the operation of the Software;
6. Assistance with third party products; Training; Installation of plug-ins, boards or modules; API support; Board building; and
7. Client's failure to allow for the prompt implementation of Error corrections, Software updates, or any work-around provided or made available by ESi (including, without limitation and applicable at all times, implementation of more recently released, generally available versions or releases of the Software made available through Support Services that contain corrections to the relevant Error or where such Error does not occur when using such more recently released version or release of the Software).

Client Responsibilities. Client agrees to limit its requests for Support Services after Standard Business Hours to occasions when the problem related to the Software is critical to Client's operation and cannot wait to be addressed until Standard Business Hours on the next succeeding Contractor business day.

/End of Exhibit B

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TO BE COMPLETED BY ESI BEFORE EXECUTION BY CLIENT

EXHIBIT C TO WEBEOC SUBSCRIPTION AGREEMENT
FEES AND PAYMENT SCHEDULE
FURTHER TO QUOTE # ▮▮▮▮▮▮▮▮

[INSERT TABLE FROM QUOTE]

Payment Terms

For purposes of this Exhibit C, ESi shall invoice, and Client shall pay, the amounts set forth below according to below payment schedule:

(i)   The "▮▮▮▮▮▮▮" set forth above in the amount of $▮▮▮▮▮▮▮ **USD** shall be invoiced by ESi to Client upon ESi's receipt of this Agreement (executed by Client);

(ii) Subsequent annual charges as set forth above for ▮▮▮▮▮▮▮ shall be invoiced by ESi to Client so that such amounts are due and payable prior to the commencement of each applicable annual period; and

(iii) Travel expenses are not reimbursable unless specifically authorized in writing, and shall be reimbursed only in accordance with section 112.061, Florida Statutes.

All charges in this Agreement are in addition to any charges set forth in any other Statement of Works or Addenda or Quotes to the Agreement or in the Agreement. All invoices are due and payable thirty (30) days from the date of the invoice and interest fees/late charges (as provided in the Agreement) shall apply to any invoiced amounts not paid within the time periods provided in this Exhibit C or in the Agreement.

If Client is tax exempt, Client shall be responsible for providing all necessary documentation to show such tax-exempt status to ESi or to the taxing entity.

Work cannot be started and dates for services cannot be secured until the applicable initial payment has been received by ESi.

Pricing contained herein is based on configuration outlined above. Some items may not be sold separately. Pricing is valid for 90 days from the date of Quote date.

Notwithstanding anything to the contrary in this Exhibit C and the Agreement, Client has 60 days from execution of this Agreement by Client to permit ESi to implement the Subscription provided hereunder into production. Should Client fail to permit ESi to implement the Subscription into production within such 60-day period, all unpaid amounts set forth above shall be immediately due and payable by Client to ESi and the implementation shall be deemed complete as of the end of such 60-day period. Client may then provide ESi written notice when Client is ready to implement the Subscription. ESi shall not have any obligations for warranties applicable to the Subscription, Software and services, if any, provided hereunder, and Support Services for such Subscription, shall not apply to issues experienced by Client, to the extent caused by Client's use of such Subscription prior to ESi's completion of the implementation of the Subscription.

/End of Exhibit C

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EXHIBIT D TO WEBEOC SUBSCRIPTION AGREEMENT
HOSTED SERVICES

1. Definitions. For the purposes of this Exhibit, the following words have the meaning set forth below:
    a. "**Juvare Cloud**" means the shared hardware environment for the purpose of hosting and maintaining software and data on behalf of ESi's customers.
    b. "**Hosted System**" means the combination of hardware, software and networking components used by the Application Service Provider to deliver the Hosted Services.
    c. "**Hosted Services**" means the installation and management of specified software applications in the Juvare Cloud shared environment on behalf of a ESi customer and exclusively for the benefit of permitted users of the Software.
    All other capitalized terms in this Exhibit D shall have the same meaning set forth in the Agreement, except where otherwise stated in this Exhibit.

2. Scope of Services. ESi shall provide the following services to address the Software hosting needs:
    a. ESi shall provide Hosted Services to Client according to the provisions set forth in the Agreement and this Exhibit. ESi shall notify Client promptly upon creation of Hosted Services account and provide Client with all information required to access such account. ESI, at its sole discretion, may provide and maintain such Hosted System and/or deliver such Hosted Services internally or through a qualified subcontractor.
    b. ESi shall provide and maintain the facilities, hardware, and networking components as it sees fit to provide access to the Juvare Cloud for the benefit of Client.
    c. ESi shall perform, at its convenience and after notice to Client, scheduled updates of the Juvare Cloud as ESi or its hosting subcontractor sees fit. Such updates shall be scheduled to enable the simultaneous update to all of ESi-hosted customers.
    d. ESi or its hosting subcontractors shall be entitled to perform, as needed, emergency security updates to the Hosted System to protect the Juvare Cloud or the subcontractor's hosted environment from newly identified and widespread threats to the internet or internet-based services posed by worms, viruses and Trojans, or to address other vulnerabilities, with little or no notice to Client.
    e. ESi shall provide and maintain a redundant shared environment of the Juvare Cloud at a location that is geographically separated from its primary ASP Environment to ensure continuity of Software access and operation in the event of any unforeseen outage, disaster or other event that may interrupt service at the primary location of the Juvare Cloud. Failover to the redundant shared environment of the Juvare Cloud is a manual process and service will be activated by ESi immediately upon notification of malfunction, unavailability or failure of primary shared environment of the Juvare Cloud.
    f. ESi will notify (via ESi's Support Center) the Client of any planned service outages, i.e., for the purpose of performing Software updates or testing, or other inability to perform the services outlined in this Agreement.
    g. ESi shall schedule, perform and maintain a duplicate ("backup") record of Client's data within the Juvare Cloud. ESi shall perform hourly SQL transaction log backups and daily full backups. Data backups are limited to SQL database server files (i.e., those files having a .mdf or .ldf file extension). Data backups shall be retained on-site for four weeks.
    h. In addition to the Support Services pursuant to the Agreement and Exhibit B, ESi shall provide Client with Support Services for the Hosted Services which include assistance with problems related to the Juvare Cloud, data access, Hosted System access, or similar problems. Such Support Services for the Hosted Services may be accessible to Client via the same contact information provided to Client for Support Services; _provided, however,_ services to be provided by ESi under this Exhibit and the Agreement do not include assistance with third party products; training; installation of plug-ins, boards or modules; API support; or board building; or repair or correction of errors, defects or other operational or performance defects caused by Software configuration, modification, enhancement or programming provided by any party other than ESi or an ESi-certified technician. Any professional services described in this Section 2(h), or services required to repair or correct the errors and defects described in this Section 2(h), shall be provided on a fee-for-services basis at rates consistent with the ESi published price list in effect at the time services are rendered.
    i. Client may request performance of additional services by ESi. Such services shall be invoiced separately by ESi at the current published rate for labor and actual costs for materials and travel, if applicable.

3. Client Obligations
    a. The Client shall maintain, at Client's expense, a secure high-speed internet connection through which to access its hosted Software.
    b. The Client shall appoint a designated point of contact and two alternate points of contact for its interactions with ESi. Client shall provide ESi with the name, job title, physical address, telephone number, facsimile

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number and electronic mail address for each of the contact persons. Client shall keep such contact information up-to-date and promptly notify ESi, in writing via electronic mail, of any changes.

c.   The Client shall use reasonable security precautions in connection with the use of Services provided under this Agreement.

d.   The Client is responsible for any and all use and access to the Hosted System and Hosted Services by its employees, agents, contractors and permitted users of the Software and Hosted Services.

e.   The Client shall make best efforts to notify ESi in writing, via electronic mail or facsimile, of any planned non-emergency use of its Software, such as the occurrence of training sessions, drills and exercises, to aid ESi with the planning of any scheduled outages.

f.   The Client shall promptly notify ESi Support Center of any identified Hosted Services outage that impairs Client's access to the Software so that ESi may manually activate the redundant shared environment of the Juvare Cloud and immediately commence work to restore service to the primary shared environment of the Juvare Cloud.

b.   The Client shall not conduct any load testing, performance testing or any other test of the Hosted System which may degrade performance or limit or adversely impact availability of the Juvare Cloud for other customers.

4.   Limitations on Use of Hosted Services.

a.   Access to the Hosted System may not be rented, leased, sold, sub-leased, assigned or otherwise transferred for value or for no value by Client to any third party.

b.   Hosted System and Hosted Services are provided to support the Software which is an information management tool. Hosted Services are not guaranteed to be fault-tolerant or to provide fail-safe performance. Hosted Services are not appropriate for use in ultra-hazardous environments where failure of the Hosted System or the Juvare Cloud may lead to bodily injury, death or destruction of property.

c.   Installation of Software applications in the Juvare Cloud is limited to the Software included in the Subscription to Client by ESi and Software supplied by ESi either as a component of the Hosted System or to support delivery of Hosted Services.

d.   ESi shall only be responsible for performance of components of the Hosted System and Services under its control. ESi shall not be responsible for performance deficiencies caused by processes, hardware and software beyond its control including, but not limited to, information transmission delays due to excessive internet traffic, internet outages, or failure of Client to perform its obligations under this Agreement.

e.   The warranties set forth in the Agreement shall be void if any breach of this warranty or failure of the hosting environment or Software is caused by unauthorized use, improper use or modification to Software made by Client or its authorized users.

/End of Exhibit D

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EXHIBIT E TO WEBEOC SUBSCRIPTION AGREEMENT

STATEMENT OF WORK - No. _____

(intentionally blank - follows immediately hereinafter)

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CONTRACT# G0069
EXHIBIT D

**ESI ACQUISITION, INC.
END USER LICENSE AGREEMENT
LOCAL IMPLEMENTATION**

==TO BE COMPLETED BY ESI BEFORE EXECUTION BY LICENSEE==

This **End User License Agreement** (the "**Agreement**"), effective this ____ day of_____, 2020 ("**Effective Date**"), is made by and between **ESi Acquisition, Inc.** ("**ESi**"), a Delaware Corporation with its principal place of business located at 235 Peachtree Street NE, Suite 2300, Atlanta, Georgia 30303 and _____ ("**Licensee**"), a_____with its principal place of business located at_____. ESi and Licensee may individually be referred to as a "Party" herein, or the "Parties" collectively.

This Agreement is subject to the State of Florida Agency Term Contract, Contract Number _____ (the "2020 Agency Term Contract"), by and between the State of Florida, Division of Emergency Management (the "Division") and ESi. In the event of an inconsistency in the terms of this Agreement and the terms of the 2020 Agency Term Contract, the terms in the 2020 Agency Term Contract shall control for purposes of such inconsistency.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.   License Agreement. This is a license agreement and not an agreement for sale. As of the Effective Date of this Agreement (defined above), this Agreement covers the WebEOC® Software and services (including Support Services) that Licensee purchases from ESi as a provider of the Software governed by this Agreement ("**Services**") pursuant to Exhibits incorporated herein or Statements of Work hereto that are executed and/or agreed upon by both parties and expressly references this Agreement. Licensee agrees that purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by ESi regarding future functionality or features.

2.   **Definitions.** Unless otherwise defined within this Agreement (including, without limitation, an Exhibit incorporated herein), or any Statements of Work to this Agreement, the capitalized terms used in this Agreement shall have the meanings set forth below:
   a.   "*Administrator*" means an employee, officer, director or consultant of Licensee to whom Licensee has provided a named user account and certain rights to administer the Software on behalf of Licensee.
   b.   "*Affiliate*" means an entity that controls, is controlled by, or is under common control with a party hereto.
   c.   "Consulting Services" means the installation, implementation, training, and other non-recurring services as set forth on Exhibit D hereto; Consulting Services do not include Support Services.
   d.   "*Derivative Work(s)*" means the work based on or derived from or modifications, enhancements or other functional extensions of the Software.
   e.   "*Documentation*" means the user manuals, specifications, requirements, training materials, and any other documents, materials, information or guidance, whether supplied as printed material or in electronic form, provided by ESi in conjunction with the purchase, training, use, maintenance or update of the Software and Services provided hereunder.
   f.   "*Installation*" of the Software shall be deemed to be complete on the sooner to occur of (i) the day that the Software is available for production, (ii) the date of Licensee's first use of the Software in a live production environment, or (iii) 90 days following the date of Licensee's execution of this Agreement (or if for an amendment, Exhibit or Statement of Work adding Software License(s) under this Agreement, the Licensee's execution of such subsequent amendment, Exhibit or Statement of Work).
   g.   "*License*" means certain limited rights to use the proprietary ESi Software, Software Updates, online and/or hard-copy documentation and user guides as set forth in Section 4 of this Agreement and for the Term set forth on Exhibit A hereto.
   h.   "*Module*" means a proprietary set of status boards developed by ESi for use with selected ESi WebEOC branded software which are designed to address a common functional need.
   i.   "*Party*" means ESi or the licensee individually and "Parties" shall mean ESi and the Licensee collectively.
   j.   "*Software*," means, individually and collectively, the software licensed to Licensee from ESi as identified on Exhibit A hereto and Software Updates to such software.
   k.   "*Software Support Plan*" means the Support Services plan purchased by Client and provided by ESi pursuant to the Fees, if any are for the Software Support Plan, on Exhibit C to this Agreement.
   l.   "Software Updates" means any technical correction, patch, bug fix, enhancement or other software release to the Software that is provided to Client pursuant to an active Software Support Plan.
   m.   "*Standard Business Hours*" shall mean 9:00 a.m. through 6:00 p.m. U.S. Eastern Time, Monday through Friday, excluding holidays, and are subject to change by ESi.

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n. "Support Services" means the technical support services provided by ESi pursuant to Section 11, Exhibit B and Exhibit C to this Agreement. May also be referred to as "Software Support Services."

o. "*Surge Capacity Plan*" means an optional emergency response program which permits Licensee to increase the number of Users to support response to or recovery from an incident declared a disaster by a state or federal government agency.

p. "*Term*" means as set forth in Section 5 and Exhibit A of this Agreement.

q. "*Travel Expenses*" means travel, living and out of pocket expenses (including travel agent service fees and applicable internal per diems) incurred by ESi in connection with the performance of Services hereunder, including, without limitation, charges and fees incurred by ESi resulting from the cancellation/rescheduling of scheduled air· travel or similar services based on changes requested by Licensee to the applicable dates for performance of the relevant Services.

r. "*User*" means an authorized employee, contractor or affiliate of Licensee to whom Licensee has provided a named user account for the Software.

3. **Ownership and Licensing Authority.**
Ownership of, and title to, the Software and Documentation shall be held by ESi and its licensor(s) and is protected by United States law and applicable international laws, treaties and conventions regarding intellectual property. ESi and its licensor(s) shall retain all rights, title and ownership not granted herein to all copies of the Software and Documentation licensed under this Agreement. The owner of any third-party software, if any, licensed or utilized with the Software hereunder shall have the right to enforce this Agreement to the extent permitted by applicable law. "WebEOC" is a registered trademark of ESi Acquisition, Inc., all rights reserved.

4. **Grant of License.** ESi grants to Licensee, and Licensee accepts, subject to the terms and conditions in this Agreement, including, without limitation, Licensee's payment obligations, a limited non-exclusive, non-transferable, non-sublicensable, revocable term License to use the Software and Documentation for the permitted uses during the Term. Except as expressly authorized in this Agreement, Licensee shall not rent, lease, loan, sell, sublicense, distribute, transfer, copy, reproduce, display, modify, provide commercial hosting services, time share or dispose of the Software or Documentation or any part thereof, use the Software to provide any services to third parties or otherwise use the Software and Documentation to generate commercial revenue.

5. **Term.** The Term of this Agreement shall commence on the Effective Date of this Agreement and shall continue through the sooner to occur of: (i) termination of this Agreement pursuant to the terms hereof, or (ii) expiration of the Term of the License to the Software as set forth in Exhibit A (Exhibit A is herein incorporated and made part of this Agreement by this reference).

6. **Permitted Uses.** Licensee's, and its User's, access and use of the Software shall be limited and subject to the following terms and conditions:

    a. Licensee may install and use one (1) Instance of the Software on one (1) Machine. As used herein, Machine means a single laptop, personal computer or web server, or a combined web and database server or multiple load-balanced web servers, configured to point to a single database and database server that is used operationally or "in production" ("Instance").

    b. Licensee may use the Software and Documentation solely for Licensee's internal business purposes.

    c. Licensee also may make one (1) copy of the Software for back-up or archival purposes.

    d. License also may install the Software to support "non-production" software development cycle activities if a non-production license is granted to Client pursuant to this Agreement as set forth in Exhibit A to this Agreement.

    e. If Licensee requires or desires operational use of more than one Instance of the Software, an additional License(s) shall be required.

    f. The Software is licensed on a named and active user basis. Each User shall have a unique user account. User accounts, usernames and passwords shall not be shared, and may not be changed more than once per month. Licensee may provide access to the number of Users, including, without limitation, Administrators and Sub-Administrators, if any, as expressly set forth in Exhibit A to this Agreement. User counts are based on the number of unique log-ins each month. ESi shall have the right to conduct regular audits of Licensee compliance with the number of Users permitted under this Agreement. Licensee agrees to promptly provide ESi with the· information and access required by ESi, if any, to complete such audits. Such audits shall be conducted at ESi's expense, except that Licensee shall be responsible for reimbursing ESi for all reasonable audit expenses if Licensee shall be found in violation of the User limits set forth in this Agreement. Licensee shall be in violation of User limits if the number of Users during any month covered by the audit is greater than the number of Users permitted in Schedule A and such increase in Licensee is not supported by a Surge Capacity Plan.

    g. Administrators and Users shall have different rights to access the Software:

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      i.   Administrators may access all features of the Software. Certain features of the Software may only be accessed by named users who are granted status as an Administrator ("Administration Tools"). Administration Tools include, without limitation, the following: creation and administration of user accounts; creation and subsequent editing of incidents; software configuration; use of the WebEOC BoardBuilder tool; installation and administration of board sets, plug-ins, modules, interfaces and Software Updates; and access to the Software's Application Programming Interface.

      i.   Users may not be granted access to any Administration Tools, except that Administrators may grant designated Users rights to create or edit incidents and to add or edit maps in MapTac™.

h.   Except where otherwise provided in this Agreement, rights to access and use Administrative Tools are given exclusively to the Licensee and Licensee may not grant such rights to any third party.

i.   Licensee may provide its consultant(s) or independent contractor(s) with access to the Software and Documentation, provided that such consultants or independent contractors are using the Software and Documentation exclusively for the benefit of the Licensee. Licensee shall be responsible for compliance by its consultants and independent contractors with the terms and conditions of this Agreement.

j.   If the Licensed Software includes the WebEOC Enterprise Software or the WebEOC Professional Software, Licensee may use the WebEOC BoardBuilder tool to copy, modify and create WebEOC Software forms and templates ("Status Boards") and Licensee may distribute, in printed form or as electronic media, the Status Boards to Licensee's authorized users, provided that such Status Boards are used exclusively for the internal business purposes of Licensee. Status Boards shall be considered Derivative Work(s) of the Software and Licensee shall not sell, resell, license or otherwise transfer for value any Derivative Work(s) created using the WebEOC BoardBuilder tool, and Licensee shall not distribute such Derivative Work(s) as part of any product or service for value to any third party. Any Derivative Work(s) prepared by Licensee shall remain subject to the terms of this Agreement and shall clearly display the following copyright notice to properly acknowledge the proprietary rights of ESi and its third-party licensors: "This work includes the intellectual property of ESi Acquisition, Inc. and its licensors and is provided under license. Copyright © 2002-2019, ESi Acquisition, Inc. and its licensors. All rights reserved."

k.   Licensee may, at its option and according to the terms of the ESi standard price list, obtain a Disaster Recovery Software License to support replication of an active, source server to one or more redundant ("Target") servers which may be placed in use to support disaster recovery or fail-over activities. A Disaster Recovery Software License is required for each Target server. A Disaster Recovery Software License may be used to operate an "in production" instance of the Software only when the source server is inactive or inoperable; only one Instance of the Software shall be active at any one time. Licensee is not required to obtain additional licenses for Software plug-ins, modules or interfaces installed on a redundant licensed Machine.

l.   Permitted uses of WebEOC Fusion Software vary from the terms set forth in items (a) through (l) of this Section 6. Licensee may install and place in production one (1) copy of WebEOC Fusion Software on one (1) source server and one (1) target server. Licensee may make one (1) copy of the WebEOC Fusion Software for back-up or archival purposes, or Licensee may install a second copy of the WebEOC Fusion Software on a second Machine if only one (1) copy of the WebEOC Fusion software is in use at any one time. There is no limit to the number of licensed Instances of WebEOC Fusion Software (or number of WebEOC Fusion Software licensees) which may be connected by a single instance of WebEOC Fusion Software, provided that (i) only the Licensee of the WebEOC Fusion Software has administrative privileges and administrative access to the WebEOC Fusion Software and (ii) Licensee has paid to ESi all applicable connection fees.

7.   **Protection of Software.** Licensee agrees to take all reasonable steps to protect the Software and Documentation from unauthorized copying or use. The Software source code represents and embodies trade secrets of ESi and/or its third-party licensors. The Software source code and embodied trade secrets are not licensed to the Licensee. Licensee agrees not to disassemble, decompile or otherwise reverse engineer the Software, use reflection or other mechanism to view, interpret, translate or try to understand the structure of the Software, or otherwise attempt to discover the source code and/or the trade secrets contained in the source code, and Licensee will not allow third parties to do so. Licensee may not, nor allow third parties to, modify or alter the Software in any way.

8.   **Confidentiality. Subject to chapter 119, Florida Statutes, the parties agree as follows:**
    8.1   Confidential Information Defined. During the Term of this Agreement and in connection with each party's performance of their respective duties and obligations hereunder and thereunder, each party will disclose to the other ("Disclosing Party") and the other party shall receive ("Receiving Party") certain Confidential Information of the Disclosing Party. The term "Confidential Information" shall mean any and all information that the Disclosing Party discloses to the Receiving Party in connection with or related to this

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Agreement, whether disclosed verbally, electronically, visually, or in a written or other tangible or intangible form, including, but is not limited to, trade secrets, customers, customer lists, intellectual property, computer programs, software, documentation, formulas, data, inventions, techniques, financial, marketing or product development plans, personnel, audit results, designs, performance data, as to ESi, the ESi Technology and any other deliverables (including, without limitation, data, information, computer code and reports) provided in connection with the Software, and, as to Licensee, the Licensee's Information, as well as any other information that the Disclosing Party clearly communicates to the Receiving Party as confidential.

8.2   Duties with Regard to Confidential Information. The Receiving Party agrees that it will only use the Disclosing Party's Confidential Information in the performance of its obligations hereunder or as otherwise expressly provided in this Agreement, and that it will only disclose the Disclosing Party's Confidential Information only to those of its directors, officers, employees, consultants, agents, independent contractors, and professional advisers who need to know such information and who are subject to written agreements with the Receiving Party sufficient to enable the Receiving Party to require such persons to comply with the Receiving Party's confidentiality obligations hereunder. The Receiving Party agrees that it will treat all of the Disclosing Party's Confidential Information with the same degree of care (but no less than reasonable care) as it accords its own confidential information.

In the event of a breach of Licensee's Information by ESi or its personnel, employees, agents, contractors or subcontractors ("ESi Representatives") performing ESi's obligations set forth in this Agreement, ESi shall, at its sole cost and expense, defend the State of Florida, Licensee, and their officers, agents and employees from third party claims and actions arising from or resulting from ESi's or the ESi Representative's breach of ESi's obligations in this Agreement and will pay amounts awarded to such third party by a court of appropriate jurisdiction to the extent based on such claims or otherwise included in a settlement of such claims approved by ESi, provided that: (1) Licensee notifies ESi in writing promptly upon becoming aware of such a claim; (2) ESi has sole control of the defense of such claims and all related settlement negotiations; and (3) Licensee, at ESi's expense, provides ESi with reasonable assistance in the defense and settlement of such claims. ESi's obligations to defend and pay under this subsection 8.2 shall not apply to claims based on the act or omission of the State of Florida, Licensee, and their officers, agents and employees.

Notwithstanding the foregoing or ESi's obligations elsewhere in this Section, Licensee understands that ESi does not require any information for the performance of Services hereunder other than telephone numbers and applicable account ID's, and that ESi cannot guarantee the security of Licensee Information when stored on Licensee's applicable equipment and hardware or transmitted or accessible when using the internet or other services providers. ESi shall not be liable or responsible to Licensee or any other party for any losses, damages, claims, costs or other obligations arising out of or relating to any unauthorized access to, disclosure or use of information stored by Licensee on the System or while such information is transmitted or accessible through the Software, the internet, or services providers. Additionally, ESi shall not be responsible for any breach of security or confidentiality caused by Licensee's failure to maintain the confidentiality and control of its user identification numbers or passwords related to its use of the Software provided hereunder.

8.3   Exclusions from Confidential Information. Confidential Information does not include information that (a) is or becomes generally available to the public other than as a result of an unauthorized disclosure by the Receiving Party or its personnel; (b) has been or is obtained by the Receiving Party from an independent source without accompanying obligations of confidentiality; (c) is independently developed by the Receiving Party without reliance in any way on the Disclosing Party's Confidential Information; or (d) has been approved for unrestricted release by the Disclosing Party in writing. Additionally, the Receiving Party may disclose the Disclosing Party's Confidential Information where the Receiving Party is required by law to disclose information that is otherwise Confidential Information, provided (to the extent not prohibited by law) the Receiving Party has first notified the Disclosing Party in writing as soon as is commercially reasonable of such requirement to disclose the Disclosing Party's otherwise Confidential Information in order to permit the Disclosing Party to seek confidential treatment of such information.

8.4   Protection of Confidential Information. Notwithstanding the "Dispute Resolution" Section of this Agreement, the Receiving Party acknowledges that the Disclosing Party shall have the right to take all reasonable steps to protect the Disclosing Party's confidential and proprietary interests, including, but not limited to, injunctive relief in a court of law or equity and any other remedies as may be available at law or in equity in the event the Receiving Party does not fulfill its obligations under this Section.

8.5   Survival of Confidentiality Obligations. Subject to the applicable Florida statutory provisions, each party's obligations of confidentiality pursuant to this Agreement for all Confidential Information disclosed between the parties during the term of this Agreement shall survive the expiration or termination of this Agreement as follows: (i) for Confidential Information consisting of trade secrets, for so long as such information remains a trade secret of the disclosing party or for five (5) years following the expiration or termination of this Agreement, whichever is longer, (ii) for Confidential Information consisting of the disclosing party's Licensee information or ESi's suppliers' information, indefinitely, and (iii) for all other Confidential Information, for five (5) years following the expiration or termination of this Agreement.

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8.6 Termination of This Agreement. Upon termination of this Agreement or upon the Disclosing Party's written request, the Receiving Party agrees to terminate all use of the Disclosing Party's Confidential Information and to either to return to the Disclosing Party all copies of the Disclosing Party's Confidential Information in its possession or under its control or to provide the Disclosing Party with written notice from one of the Receiving Party's authorized representatives certifying that all copies of the Disclosing Party's Confidential Information in the Receiving Party's possession or control have been destroyed; provided, however, the Receiving Party may (at its option, but not its obligation) keep a copy of the Disclosing Party's Confidential Information in its archives, and the provisions of this Section 8 shall continue with respect to such Confidential Information.

8.7 Public Records. ESi shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by ESi in conjunction with this Agreement. In accordance with section 119.0701(2), Florida Statutes, a vendor providing contractual services and acting on behalf of the Licensee must:

(i) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.

(ii) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(iv) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (850) 815-4156, Records@em.myflorida.com, or 2555 Shumard Oak Boulevard, Tallahassee, FL 32399.

9. **Proprietary Interests.** The Software and Documentation, and all copies thereof, shall remain the exclusive property of ESi and/or its third-party licensors. All applicable rights to copyrights, trademarks, logos, patents and other intellectual property shall remain vested in ESi and/or its third-party licensors. Licensee shall not claim, register, alter or modify, any interest in such copyrights, trademarks, patents or other intellectual property, nor shall Licensee nor attempt to do any of the foregoing. Licensee shall not translate any of the ESi trademarks into any other language or alphabet. Notwithstanding the foregoing, Licensee shall always have title to data input and output arising out of the use of the Software, and any computer programs developed by or for Licensee using output of the Software as input to another source, and which do not include any logic and code of the Software, and such shall remain the exclusive property of the Licensee. Licensee acknowledges and agrees that ESi may seek equitable relief at any time to remedy a violation or threatened violation of the restrictions set forth herein regarding the use and protection of the Software and Documentation.

10. **Copying of Documentation.** Licensee may make as many copies of the Documentation as necessary for Licensee's internal purposes, provided that (i) Licensee shall not modify or alter the content or appearance of the Documentation, modify or alter the appearance of any ESi trademark or logo in the Documentation, or eliminate any references to ESi Acquisition, Inc., WebEOC or other Software in the Documentation, (ii) Licensee shall reproduce and distribute the ESi copyright and notices page contained in the Documentation with all such copies, and (iii) maintains the confidentiality of the copies and destroys or returns such copies in accordance with Section 8 (Confidentiality) above.

11. **Support Services.** During the Term of this Agreement and provided Licensee is not in violation of this Agreement (including, without limitation, its payment obligations hereunder), ESi will provide the Support Services as expressly identified on Exhibit C to this Agreement consisting of the following: (i) ESi will use reasonable efforts to maintain the Software to comply with the applicable Documentation in all material respects, and (ii) if and when made generally available through Support Services to ESI's other customers receiving Support Services, providing subsequent releases and versions of the Software for use consistent with ESI's then current policies. All Software Updates received by Licensee shall be subject to the terms of this Agreement. Support Services are further defined on Exhibit B hereto; Exhibit B is herein incorporated and made part of this Agreement by this reference. Support Services shall not include, and ESi shall not be responsible for, failures of the Software to perform consistent with this Agreement, the Documentation, and other details set forth in any Statements of Work hereto in all material respects resulting from or caused by Licensee, Licensee's hardware and equipment, Licensee's connection to the Software, third party service providers, including, without limitation, communications services providers, or otherwise disclaimed elsewhere

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in this Agreement. In the event Licensee does not pay for Support Services, Licensee shall not receive any Support Services; in the event that Licensee does not pay for Support Services for a period of time and then Licensee elects to renew Support Services, Licensee shall pay, and ESi shall invoice, the fees for the period of time that the Licensee allowed the Support Services to lapse plus ESi's then current fees for lapsed Support Services on such amounts.

12   **Consulting Services.** ESi will provide the Consulting Services expressly set forth in the Statement of Work for such services identified in Exhibit D attached hereto, if any, for the Fees for such professional services, if any, as set forth in Exhibit C and the Exhibit D; Exhibit D is herein incorporated and made part of this Agreement by this reference.

13.   **Warranty.**

13.1   Warranty by ESi. For new Software licensed pursuant to this Agreement (for instance, merely adding additional User licenses for use with the Software would not be considered new Software), ESi warrants that, for a period of 60 days from the Installation (the "Software Warranty Period"), the Software, when used in accordance with the applicable Documentation and this Agreement, will perform in compliance with the specifications for such Software as set forth in the Documentation in all material respects. In the event the Software fail to perform as warranted herein during such Software Warranty Period, and ESi receives written notice of such failure from Licensee following the first occurrence of such failure (and in all events prior to the expiration of the Software Warranty Period):

   a.   ESi shall use all reasonable efforts to correct any reproducible error condition reported to ESi in such written notice during the Software Warranty Period as soon as reasonably possible (not to exceed 45 days) following receipt of such written notice;

   b.   if ESi is unable to resolve such failure to comply with the warranty as provided above through either a correction or reasonable work around, Client may terminate the applicable order only (in its entirety) without penalty or liability for any amounts payable (other than charges and fees incurred prior to the effective date of such termination) on written notice to ESi that is received by ESi within 3 business days of the expiration of the 45 day "cure period" for any failure to comply with the warranty, and ESi shall, within thirty (30) days following the effective date such termination, refund to Client the pre-paid unused amounts paid by Customer pursuant to the terminated order during the 60 day period prior to the effective date of such termination. Additionally, to the extent not already waived or expired as provided above, all rights of termination by Client pursuant to this Section shall expire to the extent ESi has not received a written notice of termination pursuant to this Section prior to the expiration of the Software Warranty Period;

   c.   In the event of termination of an order as provided in this Section, Licensee shall not be obligated to pay any additional charges or fees payable pursuant to such terminated order for the period after the effective date of such termination; and

   d.   The limited warranty provided hereunder (including ESi's obligations to restore Software and provide corrections and Licensee's rights of termination pursuant to this Section) shall not apply to Software to the extent it has been modified by other than ESi (or its contractors or agents), modified at Licensee's request, or not used in accordance with the requirements of this Agreement, the Documentation and Statements of Work. ESi does not warrant that the Software will operate uninterrupted or error free, that all errors can be corrected, or that it will satisfy Licensee's requirements.

This Section sets forth Licensee's sole and exclusive remedy, and ESi's entire liability, for the failure of the Software to satisfy the warranty described in this Section 13. Any refunds pursuant to this Section shall be applied against any limitations of liability set forth in this Agreement.

ESi shall have no obligations pursuant to this Section 13 for claims under this Section 13 for which Licensee does not provide ESi written notice prior to the expiration of the Software Warranty Period.

In addition to the terms above, any termination of an initial Quote or Order pursuant to this Section 13 shall also terminate this Agreement.

13.2   Warranty by Licensee. Client represents and warrants that (a) the performance of its obligations and use of the Software by Client and its Users, including, without limitation, any Administrators or Sub-Administrators, if any, will not violate any applicable laws or regulations, ESi's rules and regulations or cause a breach of any agreements with any third parties; (b) it will not interfere with ESi's systems or the use of any services or systems by other ESi's licensees or clients; (c) it will not provide or enter any Client Information or Client Data into the Software or Systems that may or does contain protected health information under Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); (d) it will not provide or enter any Client Information or Client Data into the Software or Systems that may or does contain personal data as regulated by the General Data Protection Regulation 2016/679 (the "GDPR"); and (e) it will not send any notifications,

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be it SMS, email, text, pager alerts, phone calls, using the Software or Systems without obtaining the consent of any User or recipient as required by applicable laws, statutes, or regulations. In the event of any breach of any of the foregoing Licensee warranties, in addition to any other remedies available to ESi in this Agreement, and available to ESi at law or in equity, ESi will have the right, in its sole reasonable discretion, to terminate or suspend immediately any related Software if deemed reasonably necessary by ESi to prevent any harm to ESi, its customers and/or its business, Licensee and its Authorized Users. ESi will provide to Licensee notice and an opportunity to cure the breach if practicable, depending on the nature of the breach. Once cured, ESi will restore the Software or access to the Software and if there are any additional costs for such restoration, such costs will be invoiced to Client at ESi's then current rates for such services and Client agrees to pay such invoices pursuant to the payment terms used herein.

14.   Disclaimers.

   14.1   ESI DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SOFTWARE AND/OR ACCOMPANYING DOCUMENTATION. NO ORAL OR WRITTEN ADVICE OR INFORMATION PROVIDED BY ESI OR ANY OF ITS AGENTS, EMPLOYEES OR CONTRACTORS SHALL CREATE A WARRANTY, AND LICENSEE IS NOT ENTITLED TO RELY ON ANY SUCH ADVICE OR INFORMATION. ESI EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED OR FREE OF ERRORS.

   14.2   THE SOFTWARE AND ANY SERVICES THERETO ARE NOT COMPLIANT WITH THE REQUIREMENTS OF THE HIPPA.

   14.3   The Software is an information management application. The software is not fault-tolerant and is not designed, manufactured, or intended for use or resale in hazardous environments that require fail-safe performance such as in the operation of nuclear facilities, aircraft navigation or communications systems, air traffic control, emergency response, terrorism prevention or response, life support or weapons systems (collectively "High Risk Activities"), the failure of which could lead to death, personal injury, or severe physical or environmental damage. ESI EXPRESSLY DISCLAIMS ANY WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES. Licensee agrees to not use the Software for High Risk Activities. Licensee waives sovereign immunity not to exceed the extent authorized by section 768.28, Florida Statutes.

15.   Fees and Payment Terms.

   15.1   Payment; Late Payment. All amounts are due and payable by Licensee to ESi as set forth in Exhibit C hereto (unless alternative payment terms are mutually agreed up on by the parties). Exhibit C is herein incorporated and made part of this Agreement by this reference. Any payments not received by ESi within thirty (30) days after the date of the applicable invoice (or as otherwise due under the applicable Exhibit C or Quote) will be considered past due and, in accordance with section 215.422(1), Florida Statutes, Licensee will pay interest on any such amounts at the rate provided by section 215.422(3)(b).

   15.2   Travel Expenses and Additional Charges. To the extent that the Software and services provided hereunder may require ESi to travel and subject to applicable Florida statute, Licensee shall pay Travel Expenses reasonably incurred by ESi in connection with such travel. ESi shall invoice Licensee for Travel Expenses on a monthly basis as incurred. Travel Expenses are in addition to any charges set forth in this Agreement or any Quote hereto. Other additional charges may be required should Licensee elect to: (a) use the Software on more than one (1) Licensed Machine; (b) increase the number of named users who may access the Software; (c) increase the number of non-production instances of the Software; (d) license additional Software; (e) upon renewal; or (f) as otherwise required by this Agreement. Such additional charges shall be as set forth in such mutually agreed upon Quote or amended Exhibits or order form to this Agreement.

   15.3   Renewal Charges. At least sixty (60) days prior to the expiration of the Initial Period (as defined in Exhibit A) or a then current Renewal Period, ESi may notify Client of the current fees for Software and Support Services, and invoice Client for such fees for the Renewal Period so that such amount is due and payable prior to the commencement of such Renewal Period. ESi shall be entitled, in its sole discretion, to increase the fees for the Software and Support Services.

   15.4   Suspension of the Software, Services and Support Services. Without limitation as to any other rights or remedies of ESi under this Agreement, ESi reserves the right to immediately suspend Licensee's access to and use of the Software and the Services (including, without limitation Support Services), without notice to Licensee, if any charges or fees payable to ESI are past due and not paid within the time frame set forth in Section 15.1 or elsewhere in this Agreement or an Exhibit, Statement of Work or Quote hereto, as applicable. Licensee agrees that ESI shall have no liability to Licensee, and Licensee waives any claim or action against ESI in the event of suspension or termination of access to or use of the Software and the Services for Licensee's failure to timely pay all amounts. Licensee's payment obligations shall continue during any period of suspension pursuant to this Section.

   15.5   Taxes. Licensee is exempt from State of Florida sales taxes pursuant to section 212.08(6)(a), Florida Statutes. Licensee will provide ESi with a valid exemption certificate.

16.   Limitations of Liability.

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16.1 LICENSEE ENJOYS SOVEREIGN IMMUNITY AS A STATE ENTITY PURSUANT TO FLORIDA STATUTES. ANY WAIVER OF SOVEREIGN IMMUNITY IS LIMITED BY SECTION 768.28, FLORIDA STATUTES.

16.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR ANY EXHIBITS OR ATTACHMENTS HERETO AND TO THE GREATEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, ESI (INCLUDING ITS AFFILIATES) SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY EXHIBIT, QUOTES OR ORDERS HEREUNDER (HOWEVER ARISING, UNDER ANY THEORY INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, CONTRACT OR STRICT LIABILITY), INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR INTERRUPTED COMMUNICATIONS, LOST DATA, LOST REVENUE, LOST PROFITS, LOSS OF TECHNOLOGY, LOSS OF RIGHTS OR SOFTWARE OR SERVICES AND/OR DAMAGES THAT RESULT FROM INCONVENIENCE, DELAY OR LOSS OF USE OF ANY INFORMATION OR DATA OR OF THE SOFTWARE OR SERVICES, EVEN IF ESI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN. SUBJECT TO THE FOREGOING AND TO THE GREATEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, FOR THIS AGREEMENT AND EACH QUOTE FOR SOFTWARE OR SERVICES HEREUNDER, IN NO CASE SHALL ESI'S (INCLUDING ITS AFFILIATES) AGGREGATE LIABILITY DURING ANY TWELVE (12) MONTH PERIOD DURING THE TERM OF THIS AGREEMENT (THE FIRST OF WHICH SHALL COMMENCE ON THE EFFECTIVE DATE OF THIS AGREEMENT) UNDER ANY CIRCUMSTANCES EXCEED THE AMOUNTS ACTUALLY PAID TO ESI BY LICENSEE PURSUANT TO THIS AGREEMENT DURING SUCH TWELVE (12) MONTH PERIOD (EXCLUDING TRAVEL EXPENSES). THE PARTIES UNDERSTAND AND AGREE THAT THE LIMITATION OF LIABILITY SET FORTH IN THIS AGREEMENT REPRESENTS A REASONABLE ALLOCATION OF RISKS, AND EACH PARTY EXPRESSLY CONSENTS TO SUCH ALLOCATION. ESI SHALL HAVE NO LIABILITY OF ANY KIND IN THE EVENT LICENSEE'S RECORDS OR OTHER DATA SUBMITTED FOR PROCESSING ARE LOST OR DAMAGED.

17. **Termination.**

17.1 Termination for Cause. This Agreement or any Exhibit or Statements of Work hereto may be terminated as follows:

(a) by ESi upon the breach by Licensee of any of its payment obligations under this Agreement or any Quote or Exhibit hereto, which breach has not been cured within five (5) days after Licensee has received written notice thereof,

(b) by one party upon the breach by the other party of any of such other party's material obligations under this Agreement or any Quote or Statement of Work hereto that has not been cured within thirty (30) days after the breaching party has received written notice thereof (provided, however, that there shall be no cure period in the event of a breach by Licensee of its obligations related to ESi's intellectual property), or

(c) by ESi if all or a substantial portion of the assets of Licensee are transferred to an assignee for the benefit of creditors or Licensee files or has filed against it a petition for liquidation under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days.

If the basis for termination for cause applies only to a specific Exhibit or Statement of Work, the non-breaching party may elect to terminate only the affected Exhibit or associated Statement of Work, in which case this Agreement and other, if any, Exhibits and/or Statements of Work will remain in full force and effect. A breach of the terms of this Agreement, an Exhibit or a Statement of Work by a User shall be deemed to be a breach of the terms of this Agreement by Licensee.

17.2 Effective Date of Termination for Cause. Termination for cause based upon 17.1(a) above shall be effective on the 6th day after Licensee received the original written notice of breach if cure is not made or if some interim arrangement has not been reached between the parties (and agreed in writing) during the five (5) day cure period. Termination for cause based upon 17.1(b) above shall be effective on the 31st day after the breaching party received the original written notice of breach if cure is not made or if some interim arrangement has not been reached between the parties (and agreed in writing) during the thirty (30) day cure period; provided, however, if a breach under 17.1(b) is not subject to cure (e.g., disclosure of a party's Confidential Information), termination for cause is effective immediately upon the party providing written notice of termination to the breaching party consistent with the notices provision of this Agreement. Termination for cause based upon 17.1(c) above shall be effective immediately after the assignment for benefit of creditors has been made or the filing of a petition for liquidation under bankruptcy or other insolvency laws and such have not been dismissed, dissolved or the petition lifted or stayed.

17.3 Termination for Lack of Appropriation of Funds. The Licensee's performance and obligation to pay under this Agreement is contingent upon a funding appropriation by the Legislature. In the event such

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appropriation is not made by the Legislature, Licensee shall be entitled to terminate this Agreement by providing ESi with written notice of such lack of appropriation of funding and Licensee's election to terminate this Agreement. There shall be no refund by ESi to Licensee in the event of the termination of this Agreement pursuant to this subsection 18.3.

17.4 Effects of Termination. Termination of this Agreement shall result in the termination of all outstanding Statements of Work and Exhibits, and termination of all outstanding Statements of Work and Exhibits shall result in the termination of this Agreement. Upon termination of this Agreement and/or any Statements of Work and Exhibits for any reason, any amounts owed to ESi under this Agreement or any Statements of Work and Exhibits, regardless of whether not yet due and payable, will be accelerated and deemed immediately due and payable (including, without limitation, the remaining balance of unpaid fees for professional services and Travel Expenses); provided, however, in the event that Client terminates this Agreement due to a material breach by ESi or due to a lack of appropriation of funds pursuant to subsection 17.3 above, Client shall no longer be obligated to pay such amounts. All Services and all Software licenses and rights granted under this Agreement and all Statements of Work and Exhibits hereto shall immediately terminate upon termination of this Agreement. All Services and all licenses and rights granted pursuant to an applicable Statements of Work and Exhibits shall terminate upon the expiration or termination of the applicable Statements of Work and Exhibits. Upon termination of this Agreement, ESi will immediately cease performing all Services and terminate Licensee's and its User access to the Software. In accordance with Florida Public Records Law, ESi shall be obligated to retain records as applicable and thereafter, ESi shall have no obligation for retaining or maintaining a copy of any such Licensee's Information or data from the Software and ESi shall be entitled, without further liability, to destroy all such Licensee's Information or data from the Software.

17.5 Other Termination/Suspension of Services. In addition to all other remedies to which it may be entitled hereunder, ESi shall have the right, without notice to Licensee, to immediately suspend the provision of any and all Software and Services hereunder, including, without limitation, access to the Software and Support Services, in the event of (i) any breach or threatened breach of this Agreement or any Statements of Work and Exhibits hereto by Licensee or its Users or contractors, (ii) any requirement or direction by any legal or regulatory body having jurisdiction over Licensee, ESi or its suppliers or third party service providers, or (iii) any change in law that renders ESi provision of the Software unlawful or otherwise non-compliant with applicable law. Licensee's payment obligations shall continue during any period of suspension pursuant to this Section. Licensee agrees that ESi shall have no liability to Licensee, and Licensee waives any claim or action against ESi, in the event of termination of access to the Software as provided in this Agreement. ESi shall make reasonable efforts to restart such access upon Licensee's cure or correction of the event of default or breach unless it has already terminated this Agreement or any Statements of Work and Exhibits as provided hereunder. Licensee shall reimburse and pay to ESi all charges, expenses and fees incurred by ESi or payable by ESi to third parties as a result of such suspension of Software or reconnection/restart of such access to such Software.

17.6 Reserved.

17.7 Survival. In addition to provisions not listed in this Section 17.6 that shall survive by the nature of the provision and the content, the following provisions shall survive the termination or expiration of this Agreement: Section 3 (Ownership), Section 4 (Grant of License), Section 8 (Confidentiality), Section 9 (Proprietary Interests), Section 10 (Copies of Documentation), Section 13.2 (Warranty by Licensee), Section 14 (Disclaimer), Section 16 (Limitation of Liability) Section 17 (Termination), Section 17.2, Section 18 (Export Controls), Section 19 (U.S. Government Rights) and Section 21 (General Terms and Conditions).

17.8 The termination of this Agreement shall not relieve the Licensee of its obligation to pay any Charges and Fees incurred hereunder prior to the effective date of such termination or expiration or that result or arise from the termination of the Agreement (as provided in herein).

18 **Indemnification.**

18.1 By ESi. ESi shall, at ESi's sole cost and expense, defend Licensee against a third party claim that the Software provided hereunder by ESi infringes such third party's U.S. patent or copyright (or other jurisdiction as agreed to in writing by both parties), and ESi shall pay damages that a court finally awards to such third party to the extent based on such claims or is agreed to by ESi in settlement of such claims, provided that (i) Licensee provides ESi prompt written notice of such claims, (ii) ESi controls the defense and settlement of such claims, and (iii) Licensee, at ESi's expense, reasonably cooperates with ESi in the defense and settlement of such claims. ESi's obligation hereunder shall not extend to a claim to the extent such claim is based on any alleged infringement arising from any (a) infringement or contributory infringement to the extent caused in whole or in part by Licensee, its Users, agents, representatives, employees or by third parties under Licensee's direction or control; (b) additions, changes or modifications to the Software by or on behalf of Licensee except for any additions, changes or modifications made by ESi or its Suppliers on ESi's behalf; (c) incorporation of the Software or any component thereof into any other product or process; or (d) use of the Software other than as permitted by this Agreement or the applicable Quote or Order. Should the Software become, or in ESi's opinion, be likely to become the subject any such suit or action for infringement for which ESi is responsible under this Section, or if Licensee is enjoined from using the Software, ESi shall, at

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ESi's sole option and expense, (x) procure the right to continue providing the Software; (y) replace or modify such Software so that they become non-infringing and functionally equivalent; or (z) may terminate that portion of the allegedly infringing Software on written notice to Licensee. This Section states ESi's entire liability for infringement claims relating to the Services, Software, or Support Services.

18.2 **By Licensee.** Licensee waives sovereign immunity not to exceed the extent authorized by section 768.28, Florida Statutes.

19. **Export Controls.** Licensee acknowledges that the Software and Documentation are subject to United States export laws. Licensee shall not, nor shall Licensee authorize or permit its directors, employees, consultants, independent contractors or other persons, to export, re-export, disclose or otherwise provide the Software and/or Documentation to any country unless an appropriate license, exemption or authorization has been obtained from the U.S. Government. Licensee expressly agrees that Licensee shall not export, re-export, barter, or otherwise provide or disclose the Software and Documentation, in whole or in part, to: (a) any country covered by any United States trade embargo; (b) any person listed on the United States Department of Treasury's list of Specially Designated Nationals; (3) any person or entity listed on the United States Department of Commerce Denied Persons List; (4) any person or entity listed on the United States Department of Commerce Unverified or Entity Lists; (5) any person or entity listed on the United States Department of State Debarred List; or (6) any person or entity where such export, re-export, barter, disclosure or provision violates United State export control law or regulation. Licensee represents and warrants that neither it nor its directors, employees, consultants, nor any other persons or entities who may gain access to the Software and Documentation through the Licensee, are persons or entities subject to such U.S. export controls. Client waives sovereign immunity not to exceed the extent authorized by section 768.28, Florida Statutes.

20. **U.S. Government Rights.**
20.1 If Licensee is an agency, department, or other entity of the United States Government ("Government"), or funded by the United States Government, Licensee's use, duplication, reproduction, release, modification, disclosure or transfer of the Software, Documentation, technical specifications, or any related materials of any kind, including technical data, is restricted in accordance with Federal Acquisition Regulation ("FAR") 12.212 for civilian agencies, Defense Federal Acquisition Regulation Supplement ("DFARS") 227.7202 for military agencies and the equivalent regulations for the Department of Energy. The use of the Software and Documentation is further restricted in accordance with the terms of this Agreement, or any modification thereto.
20.2 The Software and Documentation are commercial computer software and commercial computer software documentation. Licensee shall ensure that each copy used or possessed by or for the Government is labeled with the following: "Manufacturer is ESi Acquisition, Inc., 235 Peachtree Street NE, Suite 2300, Atlanta, GA 30303. ALL RIGHTS RESERVED. PROPRIETARY PRODUCTS." For the purpose of any federal, state or local law, Licensee agrees that the Software and Documentation are trade secrets and proprietary commercial products of ESi and/or its third-party licensors and are not subject to disclosure.

21. **General Terms and Conditions.**
21.1 **Entire Agreement; Waiver.** This Agreement (including any Exhibits, attachments and schedules hereto) and Statements of Work set forth the entire understanding and agreement of the parties and supersede any and all oral or written agreements or understandings between the parties, as to the subject matter of this Agreement or the applicable Exhibit or Statement of Work. Any provisions, terms or conditions on Client's purchase orders which are, in any way, inconsistent with or in addition to the terms and conditions of this Agreement shall not be binding upon ESi and shall have no applicability hereunder. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.
21.2 **Governing Law.** This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of Georgia (United States of America) regardless of application of choice of law rules or principles. This Agreement expressly excludes the United Nations Convention on Contracts for the International Sale of Goods. Unless otherwise elected by ESi at its option and in writing for a particular instance, the sole jurisdiction and venue for actions related to the subject matter hereof shall be the state or United States District Court having within its jurisdiction the location of ESi's principal place of business in Atlanta, Georgia. Both parties shall consent to the jurisdiction of such courts and agree that process may be served in any manner allowed by the laws of the State of Georgia or of the United States. If Licensee acquires the License in a country other than the United States or its territories, local law may apply. The original language of this Agreement is English. In case of any discrepancies or conflicts between the English text version of this Agreement and any translation, the English version shall prevail.
21.3 **Dispute Resolution.** Subject to the "Confidentiality" Section of this Agreement, the parties agree to resolve all differences or disputes arising out of or relating to this Agreement shall be resolved and settled by final and binding arbitration administered by the Judicial, Arbitration, Mediation Services (J.A.M.S.) pursuant to J.A.M.S.' then-current arbitration rules; provided, however, that in the event that J.A.M.S. shall be unavailable for any reason, then the arbitration shall be filed with and administered by the American Arbitration

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Association ("AAA") in accordance with its Commercial Arbitration Rules. Any such arbitration shall be conducted before a single arbitrator in a proceeding held in the Atlanta, Georgia area. The arbitrator shall award to the prevailing party in such arbitration such party's attorneys' charges, arbitrator's charges, J.A.M.S.' charges (or, if applicable, AAA's charges) and other costs incurred by the prevailing party in such arbitration. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq., and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The language of the arbitration shall be English. The arbitrator shall apply the substantive law of Georgia when resolving the differences before them and shall not resort to any conflict of law rule that would call for the application of the law of another jurisdiction. The arbitrator shall take into account principles of legal privileges, such as those involving the confidentiality of communications between a lawyer and a client. The arbitrator shall render any monetary award in U.S. dollars. Notwithstanding the foregoing, the parties reserve the right to seek injunctive relief in a court of competent jurisdiction to protect any intellectual property rights and to prevent the release of Confidential Information.

21.4 **Assignment.** Licensee may not assign or otherwise transfer, in whole or in part, or in any other manner, any rights, obligations, or any interest in or under this Agreement without the prior written consent of ESi and any purported attempt to do so will be null and void. A merger or other acquisition by a third party will be treated as an assignment. ESi may at any time and without Licensee's consent assign all or a portion of its rights and duties under this Agreement to a company or companies wholly owning, owned by, or in common ownership with ESi provided that ESi provides Client with notice in advance. This Agreement shall be binding on each party's successors and permitted assigns.

21.5 **Change in Subcontractors.** ESi has the right to change, modify and otherwise convert services providers and subcontractors (including, without limitation, its affiliates) used to provide the Services and terms under which the Services are offered, provided that the basic functionality and quality of the Services will not be materially adversely affected.

21.6 **Interpretation.** In the event of a conflict between this Agreement and the terms of any Exhibit or, Statement of Work attached hereto, the terms of the Exhibit or Statement of Work shall prevail and control the interpretation of this Agreement. The Exhibits, Statement of Work, attachments, and schedules together with this Agreement shall be interpreted as a single document.

21.7 **Limitations Period.** Licensee agrees not to bring a legal action against ESi more than two years after the later of the date on which the cause of action accrues or the date on which the party discovered or with reasonable investigation should have discovered the cause of action.

21.8 **Prevailing Party.** The prevailing party in any arbitration, suit, or action brought by one party against the other party to enforce the terms of this Agreement, any Exhibits or Statements of Work hereto or any rights or obligations hereunder, shall be entitled to receive its reasonable costs, expenses, and attorneys' charges of bringing such arbitration, suit, or action.

21.9 **Independent Contractors.** The parties are independent contractors, and no agency, partnership, franchise, joint venture or employment relationship is intended or created by this Agreement. Neither party shall make any statement, representation, warranty or other commitment on behalf of the other party.

21.10 **No Implied Licenses.** There are no implied licenses under this Agreement. Neither party shall exceed the scope of the licenses granted hereunder. ESi reserves all rights not specifically granted to Licensee.

21.11 **Notice.** All notices shall be in writing and sent by certified mail (return receipt requested), overnight courier, or delivered personally to the addresses indicated on the first page of this Agreement for the applicable intended recipient, or such other address as either party may indicate by at least ten (10) days prior written notice to the other party. All notices to ESi shall be directed to the attention of the President/CEO of ESi, with a copy of all such notices also sent to ESi to the attention of ESi's General Counsel at the same address as ESi. Notice will be effective on the date shown on the delivery receipt or, in the case of personal delivery, actual receipt. All notices required pursuant to this Agreement shall be provided in strict compliance with this Section.

21.12 **Severability.** If any provision herein is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.

21.13 **No Third-Party Beneficiaries.** ESi and Licensee agree that, except as otherwise expressly provided in this Agreement, there shall be no third-party beneficiaries to this Agreement.

21.14 **Headings.** The headings used in this Agreement, Exhibits, and Statements of Work are solely for convenience and shall not be considered in its interpretation.

21.15 **Authorized Signer.** Each party represents that the person signing this Agreement, or any Exhibit or Statement of Work hereto has been properly authorized and empowered to execute and deliver this Agreement and any Exhibit or Statement of Work hereto on behalf of such party. This Agreement becomes null and void if the time between the earlier dated signature and the later dated signature exceeds sixty (60) days, unless waived by ESi.

21.16 **Incorporation by Reference.** Any Attachments to this Agreement and any Exhibit or Statement of Work now existing and hereafter executed or issued that are made pursuant to this Agreement shall be deemed to be part of this Agreement and are incorporated into this Agreement by reference.

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21.17   Amendments. Except as otherwise provided herein or in an applicable Exhibit, Statement of Work or Quote, this Agreement and any Exhibit, Statement of Work or Quote may be changed or modified only in a written document signed by duly authorized representatives of both parties.

21.18   Counterparts/Duplicate Originals. This Agreement and any Exhibit, Statement of Work or Quote may be executed by the parties in one or more counterparts or duplicate originals, and each of which when so executed shall be an original, but all such counterparts shall constitute one and the same document.

21.19   Publicity/Use of Trademarks. ESi and Client herein agree to permit the occasional use of each other's name and logo as well as reference to this Agreement and the Services in their respective promotional advertising, press releases and public relations efforts. All such use will be only in a manner that reflects positively upon the other party. ESi may, without obtaining Client's prior written consent, place Client's name on a list of ESi's customers.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate originals by their duly authorized representatives as of the day and year set forth above. This Agreement becomes null and void if the time between the earlier dated signature and the later dated signature exceeds sixty (60) days, unless waived by ESi.

TO BE COMPLETED BY ESI BEFORE EXECUTION BY LICENSEE

ESi Acquisition, Inc.   _____("**Licensee**")

By: {DRAFT}   By: {DRAFT}

Name: _____   Name: _____

Title: _____   Title: _____

Date: _____   Date: _____

End of End User Licensed Agreement; Exhibits follow.

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EXHIBIT A TO END USER LICENSE AGREEMENT

1. Term of the Software License

The License to the Software set forth on this Exhibit A shall commence on the Agreement Effective Date set forth above and continue thereafter for an initial period of_____**years** (the "**Initial Period**"). Thereafter, the License to the Software shall automatically renew for successive additional 12-month periods (each a "**Renewal Period**"), provided that either party may non-renew the License to the Software as of the end of the Initial Period or any subsequent Renewal Period, on not less than 60 days' prior written notice of non-renewal to other party. "**Term**" means the Initial Period and any Renewal Period of the License to the Software as set forth herein. Any such non-renewal shall be effective as of the end of the Initial Period or subsequent Renewal Period, as applicable, following the expiration of such 60-day notice period.

2. Licensed Software

Licensee has licensed the following Software:

Number of Licensed Machines	Software
1	WebEOC® Software – [Enterprise, Professional or Core], v#.#

Licensee also may install the Software to support "non-production" software development cycle activities:

Number of Licensed Machines	Purpose
0	Development/testing of Software Updates prior to placing in production (internal use only)
0	Training (internal use only)
0	Disaster Recovery

3. Authorized Number of Users

Licensee may provide access to the following number of Administrators and Users:

User Type	Qty of Users
Administrators – *per named user*	#
Sub-Administrators – *per named user*	#
Users – *per named user*	# (inclusive of Administrators and Sub-Administrators)

4. Surge Capacity Plan

Surge Capacity Plan has been purchased for the Term: [ ] Yes   [ ] No

5. Emergency Response Program

Emergency Response Program has been purchased for the Term: [ ] Yes   [ ] No

/End of Exhibit A

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EXHIBIT B TO END USER LICENSE AGREEMENT
DESCRIPTION OF SUPPORT SERVICES FOR THE SOFTWARE

Support Services for the Software shall include the following (in addition to what is stated in the Agreement):

1) Telephone Assistance: Licensee's "Support Contact" (as defined below) may contact the Juvare Support Center for telephone assistance to seek advice relating to the use of the Software and/or to identify and work to provide a "workaround" for Software problems, if available. Telephone assistance for non-Emergency Support Services (as defined below) shall be available during Standard Business Hours.

2) Problem Assistance: Licensee may submit problem assistance requests for Software assistance via the published ESi's support escalation procedures. ESi will notify Licensee if any request is beyond the scope of this Agreement and is, therefore, subject to additional charges. Requests for problem assistance for non-Emergency Support Services shall be available during Standard Business Hours.

3) Software Updates: ESi, at no additional charge, will provide Software Updates for the Software as such Software Updates are made generally available to other ESi customers receiving Support Services. Any training required by Licensee related to such Software Updates and subsequent versions of the Software may be provided for an additional charge. ESi shall provide Licensee with downloadable Software Updates to the Software, except for modules, as such Software Updates become available. Software Updates may include correction releases (i.e., patches provided to correct software anomalies), point releases (i.e., modifications to current generation of software including enhancement and improvements), and level releases (i.e., new releases or new generation of software), but shall not include new products, modules or plug-ins released commercially by ESi as independently priced items. For Modules, ESi, at no additional charge, will provide Software Updates for Modules as such Software Updates are made to correct errors affecting the operation of the Module, whether such error is caused by the Module itself or by an error in the Software. ESi shall not provide for any enhancements to the Module unless agreed to in writing by both parties and upon payment of the fees for such enhancements.

Process to Obtain Support Services. To obtain Support Services or telephone or problem assistance, Licensee's designated Support Contact (an assigned Administrator that has completed the Administrator training and is listed as the Support Contact for Client) may contact the Juvare Support Center pursuant to ESi's escalation support procedures. Such support procedures include contacting the Juvare Support Center via telephone, email and, when required, remote session support during Standard Business Hours and during Non-Standard Business Hours.

"Routine" Support Services includes assistance with the use and configuration of the software; assistance with identification and resolution of errors or defects assistance with application and use of new releases; general support for Board Builder and boards built by ESi or an ESi-certified technician; and access to WebEOC best practices, community-use status boards, "help" resources and other content made available through https://www.juvare.com/customers/technical-support, a "Licensee only" web forum. Support Services may be accessed by Licensee by calling the Support Center via (877) 771-0911 or by electronic mail at support@juvare.com (subject to updates and changes by ESi).

"Emergency" Support Services shall be available 24 hours per day, 365 days per year. Emergency telephone support includes any assistance needed by Licensee while Software is in use operationally, whether for actual incidents or exercises excluding assistance with GIS interfaces, mapping or products, which is licensed by a third-party vendor is available only during Standard Business Hours. Emergency Support Services may be accessed by calling the Support Center via (877) 771-0911 (subject to updates and changes by ESi).

Licensee may request performance of additional services by ESi. Such services shall be invoiced separately by ESi at ESi's then current rate for such services and Travel Expenses, if applicable.

Limitations on Support Services. ESi will provide Support Services for only the current version of any Software. Licensee is obligated to promptly implement all Software Updates, work arounds and error corrections provided by ESi.

Problems or Issues Not Covered by Support Services. The following issues/problems, and all issues or problems caused by the following, are not covered by Support Services:

1. Alterations to the Software not authorized by ESi;
2. Unless otherwise agreed in an Exhibit, Quote or Statement of Work hereto, customizations to the Software from consulting or professional services provided by ESi, including applications design or recommendations by Licensee;
3. Software problems created by Licensee negligence or fault or failure to comply with any specifications, policies, procedures or requirements for use of the Software, including, without limitation, those set forth in ESi's Terms & Conditions;
4. Software problems caused by or related to a change in Licensee's service provider or internet access provider. Without limiting the generality of the foregoing, no reconfiguration of the Software due to a change in a service provider is covered under Support Services. Licensee should notify ESi prior to changing its service provider to enable ESi to provide configuration specifications to the new service provider. Any programming and configuration changes will be charged to Licensee at the then-current ESi's daily/hourly rates for such reconfiguration services;
5. Software problems that do not significantly impair or affect the operation of the Software;
6. Assistance with third party products; training; installation of plug-ins, boards or modules; API support; Board building; and
7. Licensee's failure to allow for the prompt implementation of error corrections, Software updates, or any work-around provided or made available by ESi (including, without limitation and applicable at all times, implementation of more recently released, generally available versions or releases of the Software made available through Support Services that contain corrections to the relevant error or where such error does not occur when using such more recently released version or release of the Software).

Licensee Responsibilities. Licensee agrees to limit its requests for Support Services after Standard Business Hours to occasions when the problem related to the Software is critical to Licensee's operation and cannot wait to be addressed until Standard Business Hours on the next succeeding ESi business day.

/End of Exhibit B

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TO BE COMPLETED BY ESI BEFORE EXECUTION BY LICENSEE

EXHIBIT C TO END USER LICENSE AGREEMENT
FEES AND PAYMENT SCHEDULE
FURTHER TO QUOTE # _____

[INSERT TABLE(S) FROM QUOTE]

Payment Terms
For purposes of this Exhibit C, ESi shall invoice, and Licensee shall pay, the amounts set forth below according to below payment schedule:

(i)   The "Total_____Costs" set forth above of $_____USD shall be invoiced by ESi to Licensee upon ESi's receipt of this Agreement (executed by Licensee);

(ii)   Subsequent annual charges for Support Services shall be invoiced by ESi to Licensee so that such amounts are due and payable prior to the commencement of each applicable annual period; and

(iii)   Travel Expenses are not reimbursable unless specifically authorized in writing and shall be reimbursed only in accordance with section 112.061, Florida Statutes.

All charges in this Agreement are in addition to any charges set forth in any other Statement of Works or Exhibits or accepted quotes to the Agreement or in the Agreement. All invoices are due and payable thirty (30) days from the date of the invoice and interest fees/late charges (as provided in the Agreement) shall apply to any invoiced amounts not paid within the time periods provided in this Exhibit C or in the Agreement.

If Licensee is tax exempt, Licensee shall be responsible for providing all necessary documentation to show such tax-exempt status to ESi or to the taxing entity.

Work cannot be started and dates for services cannot be secured until the applicable initial payment has been received by ESi.

Pricing contained herein is based on configuration outlined above. Some items may not be sold separately.
Pricing is valid for 90 days from the date of Quote date.

Notwithstanding anything to the contrary in this Exhibit C and the Agreement, Licensee has 120 days from execution of this Agreement by Customer to place all Software provided hereunder into production. Should Licensee fail to place all Software into production within such 120-day period, all unpaid amounts set forth above shall be immediately due and payable by Licensee to ESi and the implementation shall be deemed complete as of the end of such 120-day period. Licensee may then provide ESi written notice when Licensee is ready to implement the Software. ESi shall not have any obligations for warranties applicable to the Software and services provided hereunder, and Support Services for such Software, shall not apply to issues experienced by Licensee, to the extent caused by Licensee's use of such Software prior to ESi's completion of the implementation of the Software.

/End of Exhibit C

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EXHIBIT D TO END USER LICENSE AGREEMENT

STATEMENT OF WORK - No. _____

(intentionally blank - follows immediately hereinafter)