

STANDARD CONTRACT TERMS & CONDITIONS

The statement of work/scope of work for this Agreement shall include any of the following applicable documents which shall be incorporated by reference herein and shall be enclosed herein and follow this cover page:

- Request for Quotation and Approved Quote; or
- Invitation for Bid and Approved Bid; or
- Request for Proposal (RFP) and Approved Response to RFP
- Other Documents approved by the County Attorney.

The Parties to the Agreement, the County of Warren (hereafter, "the County") and (contractor) (hereafter, "Contractor") agree to be bound by the following clauses which are hereby made a part of the Agreement to the extent applicable:

1. EXECUTORY CLAUSE. In accordance with section 362(3) of the County Law, the County shall have no liability under this Agreement to the Contractor or to anyone else beyond funds appropriated and available for this Agreement.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 109 of the General Municipal Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous written consent of the County for assignments requested due to the Contractor's reorganization, merger, or consolidation. Any attempt to assign the Agreement without the prior written consent of the County shall be null and void. The Contractor may, however, assign its right to receive payment without the County's prior written consent.

3. CHANGES/AMENDMENTS. The County shall have the right at any time, by written notice, in the form of a Change Order, to the Contractor, to make any changes it deems necessary, including but not limited to, changes in specifications, design, delivery, testing methods, packing, or destination. If any such required changes cause an increase or decrease in the cost of or time required for performance, an equitable adjustment shall be made in the contract price or delivery schedule, or both. Any claim by the Contractor for adjustment under this clause shall be deemed waived unless asserted in writing within ten business (10) days from receipt by the Contractor of the Change Order. Price increases, extensions of time for delivery and change in quantity shall not be binding on the County unless evidenced by a form of Change Order issued and signed by the County.

4. CANCELLATION. The County may cancel this Agreement in whole or in part at any time, for cause, by written notice to the Contractor, effective when sent, in the event that the Contractor: (a) fails to comply with any term or condition of this Agreement including, but not limited to, delivery terms; or (b) appoints a receiver, liquidator or trustee in bankruptcy or other similar officer over any or all of its property or assets; or (c) files a voluntary petition in bankruptcy; or (d) has had filed against it an involuntary petition in bankruptcy which remains in effect for thirty (30) days; or (e) voluntarily ceases trading; or (f) merges with or is acquired by a third party; or (g) assigns any of its rights or obligations under the Agreement to a third party without the County's advance written consent. Upon the occasion of any one of the aforesaid, and in addition to any remedies which the County may have in law or in equity, the County may also cancel this Agreement, in whole or in part at any time, by written notice to the Contractor of such cancellation and the Contractor shall thereupon transfer title and deliver to the County such work in progress or completed material as may be requested by the County. The County shall have no liability to the Contractor beyond payment of any balance owing for Material purchased and/or services provided hereunder and delivered to and accepted by the County prior to the Contractor's receipt of the notice of termination, and for work in progress requested for delivery to the County.

5. TERMINATION. The Contractor and the County may mutually agree, in writing, to terminate this Agreement at any time upon thirty (30) days written notice. The County may also terminate this Agreement at any time and on any reason by providing written notice to the Contractor, not less than thirty (30) days prior to such termination date. The Contractor and the County each reserve the right to terminate this Agreement at any time in event of default or violation by either Party of any provision of this Agreement. Either Party may proceed with an action at law or in equity as may appear necessary or desirable to collect damages arising from a default or violation or to enforce performance of this Agreement. Upon written notice to the Contractor of termination, the Contractor shall thereupon transfer title and deliver to the County such work in progress or completed material as may be requested by the County. The County shall have no liability to the Contractor beyond payment of any balance owing for Material purchased and/or services provided hereunder and delivered to and accepted by the County prior to the Contractor's receipt of the notice of termination, and for work in progress requested for delivery to the County.

6. FORCE MAJEURE. If performance of the Agreement or any obligation set forth by the Agreement is prevented by an event of "Force Majeure, as defined below, the affected party shall provide written notice to the other party and shall be excused from such performance to the extent of and for the duration that performance is prevented. The affected party shall use all reasonable and customary efforts to remove the cause which prevents performance. "Force Majeure" shall mean any act or event which prevents either Party from performing its obligations under the Agreement when such failure is due to fire, flood, or similar natural disaster; strikes or similar labor disturbances; industrial disturbances, war, riot, insurrection, and/or other unknown causes beyond the control of the parties and which could not have been predicted or avoided by the non-performing party. No party shall be held liable for its failure to perform under the Agreement when performance was prevented by an event of Force Majeure.

7. PAYMENT TERMS. Contractor shall submit an invoice to the Department set forth on Page One, Section 2, on a monthly basis and the County will pay all invoices within thirty (30) days of receipt of the invoice, or as soon as is practicable. The County shall pay the Contractor in accordance with the County Purchasing Policy. Detailed original invoices not received within forty-five (45) calendar days of the completed work may result in a delay of payment. The Contractor shall not charge or assess interest charges or late fees upon any late payment made by the County.

8. RENEWAL TERMS. This Agreement may be renewed, between the Parties for additional periods of time following the Expiration Date, that were approved by the Warren County Board of Supervisor's resolution (hereafter, "Resolution") which authorized the Agreement. Renewal shall occur upon the same terms provided by this Agreement, or upon such additional terms as were approved by Resolution, a copy being incorporated by reference herein.

9. SET-OFF RIGHTS. The County shall have all of its common law and statutory rights of set-off. These rights shall include, but not be limited to, the County's option to withhold for the purposes of set-off any moneys due to the Contractor under this Agreement up to any

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amounts due and owing to the County with regard to this Agreement, any other Agreement, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the County for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto.

10. **SAFETY.** The County may unilaterally suspend or terminate work under this Agreement if the Contractor, or their officers, members, partners, employees, agents, subcontractors, or materialmen, are conducting any portion of the work in a manner that threatens the life, health or safety of any person on County property. This reservation of rights by the County in no way obligates the County to inspect the safety practices of the Contractor. If the County exercises its rights pursuant to this part, the Contractor shall be given three (3) days to cure the defect, unless the County, in its sole and absolute discretion, determines that the service cannot be suspended for three (3) days due to the County's legal obligation to continuously provide Contractor's service to the public or the County's immediate need for completion of the work. In such case, Contractor shall immediately cure the defect. If the Contractor fails to cure the identified defect(s), the County shall have the right to immediately terminate this Agreement. If the County terminates this Agreement, any payments for work completed by the Contractor shall be reduced by the costs incurred by the County in re-bidding the work and/or by the increase in cost that results from using a different contractor to complete the work.

11. **NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. The Contractor shall also comply with the Warren County Policy Against Discrimination and Harassment, a copy being accessible online at <https://warrencountyny.gov/hr/forms.php>, which policy applies to all persons in a contractual relationship with the County. Furthermore, in accordance with Section 220-e of the Labor Law, if this is an Agreement for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Agreement shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, sexual orientation, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Agreement. If this is a building service Agreement as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of Fifty Dollars (\$50.00) per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Agreement

and forfeiture of all moneys due hereunder for a second subsequent violation. The provisions set forth by Exhibit "D" are part of this Agreement and are incorporated by reference herein.

12. **CONFLICTS OF INTEREST.** The Contractor represents and warrants that it has no conflict, actual or perceived, that would prevent it from performing its duties and responsibilities under the Agreement and possesses no knowledge or information of any conflict of interest under Article 18 of the General Municipal Law, and the Warren County Code of Ethics, with a copy being available at the County's website <https://www.warrencountyny.gov/boardofethics>. Upon Contractor discovering any conflict of interest which arises after the Effective Date for this Agreement, the Contractor shall notify the County in writing without unreasonable delay.

13. **WAGE AND HOURS PROVISIONS.** If this is a public work Agreement covered by Article 8 of the Labor Law or a building service Agreement covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the New York State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the County of any County-approved sums due and owing for work done under this Agreement.

14. **NYS STATUTORY WORKERS COMPENSATION, EMPLOYER'S LIABILITY AND DISABILITY INSURANCE COVERAGE AND BENEFITS.** In accordance with Section 108 of the General Municipal Law this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the entire term of this Agreement for the benefit of such employees as is required to be covered by the provisions of the Workers' Compensation Law.

15. **INDEPENDENT STATUS.** Nothing in this Agreement is intended or should be construed in any manner as creating or establishing the relationship of copartners between the Parties or that the Contractor's officers, members, partners, employees, staff or agents are employees of the County in any manner whatsoever. The Contractor and their staff are and shall remain independent and separate for all work performed under this Agreement. The Contractor represents and promises that it has secured at its own expense all persons required to perform the work required by this Agreement. The Contractor's officers, members, partners, employees, representative and agents shall not be considered or deemed County employees or agents, nor shall the County be deemed a joint employer with Contractor, and any and all claims that may arise under the Workers' Compensation Laws of the State of New York on behalf of said personnel or other persons while so engaged, and any and all claims whatsoever on behalf of any such person or personnel arising out work performed under this Agreement including, without limitation, claims of discrimination

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against the Contractor, its officers, members, partners, employees, or agents, shall in no way be the responsibility of the County. The Contractor shall defend, indemnify and hold harmless the County, its officers, employees and agents from any and all such claims regardless of any determination of any pertinent tribunal, agency, board, commission or court. The Contractor's officers, members, partners, employees and agents shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from the County for work performed under this Agreement, including, without limitation, tenure rights, medical and hospital care, personal, sick and vacation leave, Workers' Compensation, employee liability, Unemployment Compensation, disability, and severance pay.

16. COUNTY PROPERTY RIGHTS. All information and materials (hereafter, "Property") received under this Agreement by the Contractor from the County are and shall remain the sole and exclusive Property of the County and the Contractor shall have no right, title, or interest in or to any such Property by virtue of their use or possession of such Property. All intellectual property, created by the Contractor hereunder as a product specifically for the use of the County or as a service provided to the County shall be the sole and exclusive property of the County. Effective upon their creation pursuant to the terms of this Agreement, the Contractor conveys, assigns and transfers to the County the sole and exclusive rights, title and interest in all documents, electronic databases, and custom programs made under this Agreement for the County, whether preliminary, final or otherwise, including all trademarks and copyrights. The Contractor hereby agrees to take all necessary and appropriate steps to ensure that the custom products are protected against unauthorized copying, reproduction and marketing by or through the Contractor, its employees, agents, or subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under this Agreement. The Contractor grants to the County a perpetual, nonexclusive, royalty-free, unlimited use license to use, execute, reproduce, display, modify and distribute any pre-existing software, tools or techniques delivered by the Contractor under this Agreement. Any written reports, opinions and advice rendered by the Contractor shall become the sole and exclusive property of the County.

17. TITLE AND RISK OF LOSS. Terms of shipping are F.O.B. the County's delivery location unless otherwise noted within the terms of this Agreement or a purchase order submitted under this Agreement. Regardless of F.O.B. point, Contractor agrees to bear all risk of loss, injury, or destruction of goods and materials ordered herein which may for any reason occur prior to inspection and acceptance by the County. Mere acknowledgement by the County of delivery or receipt of materials shall not be deemed or construed as acceptance of the materials received. No such loss, injury or destruction shall release Contractor from any obligation hereunder.

18. PROPRIETARY INFORMATION. Notwithstanding any provisions to the contrary in the Agreement, Contractor and the County acknowledge and agree that all information, in any format, submitted to the County shall be subject to and treated in accordance with the NYS Freedom of Information Law ("FOIL," Public Officers Law, Article 6). Pursuant to FOIL, the County is required to make available to the public, upon request, records or portions thereof which it possesses,

unless that information is statutorily exempt from disclosure. Therefore, Contractor should submit information to the County in a non-confidential, non-proprietary format. FOIL does provide that the County may deny access to records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." [See Public Officers Law, § 87(2)(d)]. Accordingly, if the Agreement specifically requires submission of information in a format Contractor considers a proprietary and/or confidential trade secret, Contractor shall fully identify and plainly label the information "confidential" or "proprietary" at the time of disclosure. By so marking such information, Contractor represents that the information has actual or potential specific commercial or competitive value to the competitors of Contractor. Without limitation, information will not be considered confidential or proprietary if it is or has been (i) generally known or available from other sources without obligation concerning its confidentiality; (ii) made available by the owner to others without obligation concerning its confidentiality; or (iii) already available to the County without obligation concerning its confidentiality. In the event of a FOIL request, it is the County's policy to consider records as marked above pursuant to the trade secret exemption procedure set forth in 21 New York Codes Rules & Regulations § 501.6 and any other applicable law or regulation. However, the County cannot guarantee the confidentiality of any information submitted. More information on FOIL, and the relevant statutory law and regulations, can be found at the website for the New York State Committee on Open Government (<https://opengovernment.ny.gov/freedom-information-law>) and the FOIL Policy for the County.

19. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) **FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER.** As a condition to the County's obligation to pay any invoices submitted by Contractor pursuant to this Agreement, Contractor shall provide to the County its Federal employer identification number or Federal social security number, or both such numbers when the Contractor has both such numbers. Where the Contractor does not have such number or numbers, the Contractor must give the reason or reasons why the payee does not have such number or numbers.

(b) **PRIVACY NOTIFICATION.** The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by Contractor to the County is mandatory. The information will be used for tax administration purposes and for any other purpose authorized by law.

20. PERMITS. It is the responsibility of the Contractor to acquire and maintain, at its own cost, any and all permits, licenses, easements, waivers and permissions of every nature necessary to perform the work.

21. LICENSING. Professional services performed under this Agreement shall be completed only by persons licensed by the NYS Office of Professions-Education Department as is applicable to the work including, but not limited to: accounting, actuarial, architectural

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services, engineering, medical services, physical therapy, occupational therapy, therapeutic services, to including counseling, and legal services. The Contractor represents that its officers, members, partners, employees and agents have all necessary governmental licenses to perform the work under this Agreement.

22. MAINTAINING AND INSPECTION OF RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this Agreement (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The County and any other person or entity authorized to conduct an examination, as well as any Federal or New York State agency involved in this Agreement, shall have access to the Records during normal business hours at an office of the contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable location within the County, for the term specified above for the purposes of inspection, auditing and copying. If this is an Agreement for consulting services, all payments made under the Agreement are subject to audit by the County Treasurer, or their designee. The Contractor further agrees that the County Treasurer and the Treasurer's Department shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transactions or other records relating to Services under the Contract. If such an audit discloses overpayments by the County to the Contractor, within thirty (30) days after the issuance of an official audit report by the Treasurer or their duly designated representatives, the Contractor shall repay the amount of such overpayment by check to the order of the Warren County Treasurer or shall submit a proposed plan of repayment to the Treasurer. If there is no response, or if satisfactory repayments are not made, the County may recoup overpayments from any amounts due or becoming due to the Contractor from the County under the Contract or any other Fund Source and the County may commence an action to obtain a money judgment against the Contractor, which would include reasonable attorney fees, costs and disbursements incurred. The provisions of this paragraph shall survive the expiration or termination of the Agreement for a period of six (6) years after the year in which the Agreement terminated or expired.

23. CRIMINAL ACTIVITY. If subsequent to the effectiveness of this Agreement, the County comes to know of any allegation previously unknown to it that the Contractor or any of its principals is under indictment for a felony, or has been, within five (5) years prior to submission of the Contractor's proposal to the County, convicted of a felony, under the laws of the United States or of any State or Territory of the United States, then the County may exercise its stop work right under this Agreement. If subsequent to the effectiveness of this Agreement, the County comes to know of the fact, previously unknown to it, that Contractor or any of its principals is under such indictment or has been so convicted, then the County may exercise its right to terminate this Agreement. If the Contractor knowingly withheld information about such an indictment or conviction, the County may declare the Agreement null and void and may seek legal remedies against the Contractor and its principals. The Contractor or its principals may also be subject to penalties for any violation of law which may apply in the particular circumstances. For a Contractor which is an association, partnership, corporation, or other

organization, the provisions of this paragraph apply to any such indictment or conviction of the organization itself or any of its officers, partners, or directors or members of any similar governing body, as applicable.

24. NON-COLLUSIVE BIDDING REQUIREMENT. In accordance with Section 2878 of the Public Authorities Law, if this Agreement was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the County a non-collusive bidding certification on Contractor's behalf.

25. INTERNATIONAL BOYCOTT PROHIBITION. If this Agreement exceeds Five Thousand Dollars (\$5,000), the Contractor agrees, as a material condition of the Agreement, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the Federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the Agreement's execution, such Agreement, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the County within five (5) business days of such conviction, determination or disposition of appeal. (See and compare Section 220-f of the Labor Law, Section 139-h of the State Finance Law, and 2 NYCRR 105.4).

26. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this Agreement will be in accordance with, but not limited to, the specifications and provisions of State Finance Law Section 165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by the County. Qualification for an exemption under this law will be the responsibility of the Contractor to establish to meet with the approval of the County. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the County; otherwise, the bid may not be considered responsive.

27. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

28. PROCUREMENT LOBBYING. To the extent this Agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this Agreement the Contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event

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such certification is found to be intentionally false or intentionally incomplete, the County may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

29. IRANIAN ENERGY SECTOR DIVESTMENT. In accordance with Section 2879-c of the Public Authorities Law, by signing this contract, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law (See <https://ogs.ny.gov/iran-divestment-act-2012>).

30. COMPLIANCE WITH NEW YORK STATE DIESEL EMISSION REDUCTION ACT (DERA) OF 2006. Contractor shall comply with and, if applicable to this Agreement, provide proof of compliance with the New York State Diesel Emission Reduction Act of 2006 ("DERA"), Environmental Conservation Law (ECL) Section 19-0323, and the NYS Department of Environmental Conservation (DEC) Law implementing regulations under 6 NYCRR Part 248, Use of Ultra Low Sulfur Diesel Fuel (ULSD) and Best Available Retrofit Technology ("BART"). Compliance includes, but is not limited to, the development of a heavy-duty diesel vehicle (HDDV), maintaining documentation associated with BART evaluations, submitting to and receiving DEC approval of a technology or useful-life waiver, and maintaining records where BART-applicable vehicles are primarily located or garaged. DEC regulation under 6 NYCRR Part 248, Use of Ultra Low Sulfur Diesel and Best Available Technology for Heavy Duty Vehicles can be found at: <https://www.dec.ny.gov/regs/2492.html>.

31. ADDITIONAL TERMS AND CONDITIONS.

The "Standard Insurance Coverage Requirements and Indemnification" set forth as Exhibit "C" are incorporated by reference herein and made a part hereof.

The "Compliance with Federal and New York State Regulations" set forth as Exhibit "D" are incorporated by reference herein and made a part hereof.

The "Standard Business Associate Agreement" set forth as Exhibit "E" shall be made a mandatory part of any Agreement which requires the creation, maintenance, transmission or receiving of protected health information (PHI), to include electronic protected health information (EPHI), and is incorporated by reference herein and made a part hereof.

The "Supplemental Terms and Conditions: Computer Hardware, Software and Cloud Computing" set forth as Exhibit "F" shall be made a mandatory part of any Agreement which involves computer hardware, computer software, computer coding, and/or cloud computing products or services and is incorporated by reference herein and made a part hereof.

32. CONFLICTING TERMS. In the event of a conflict between the terms of the Agreement (including any and all attachments thereto and amendments thereof) and the terms of this Exhibit "B," the terms of this Exhibit "B" shall control.

33. NO ARBITRATION. Disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily required) without the County's written consent, but must, instead, be heard in a court of competent jurisdiction of the State of New York.

34. GOVERNING LAW. This Agreement shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

35. VENUE. Any action or special proceeding commenced between the Parties or by any third-party as against any Party in relation to any matter governed by this Agreement shall be commenced only before the Supreme Court for the County of Warren.

36. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law and Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the County's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the County, in writing, of each and every change of address to which service of process can be made. Service by the County to the last known address of Contractor shall be deemed good and sufficient service. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

37. NOTICE PROVISION. Any notice, request, demand or other communication required or provided for in this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person or mailed in a sealed envelope, postage prepaid, as certified mail and addressed as follows: Notice to the County shall be sent to the Department Head for the Department stated in Section 2 on Page One of this Agreement, with a copy sent to:

Chair, Warren County Board of Supervisors
C/O Clerk of the Board of Supervisors
1340 State Route 9
Lake George, NY 12845

and an additional copy to:

Warren County Attorney
1340 State Route 9
Lake George, NY 12845.

Notice to the Contractor shall be sent to the Contractor at the address set forth in Section 4 on Page One of this Agreement, or any updated address provided to the County by the Contractor after the effective date of this Agreement. The notice shall be deemed received the day after it is mailed.

38. ADMISSIBILITY OF REPRODUCTION OF AGREEMENT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, regardless of whether the original of said contract is in existence.

39. ELECTRONIC SIGNATURES BINDING. In accordance with Section 304(2) of the New York State Technology Law, an electronic signature upon Page One of this Agreement may be used and in lieu of a signature affixed by hand and shall have the same validity and effect as the use of a signature affixed by hand.

40. EXECUTION. This Agreement may be executed in separate counterparts which together shall constitute the entire Agreement of the Parties so long as both Parties executed their copy of this Agreement. By executing this Agreement on Page One, the Contractor certifies that all information provided to the County under New York State Finance Law, Section 139-k is complete, true and accurate.

Standard Insurance Coverage Requirements and Indemnification
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ARTICLE ONE: INSURANCE COVERAGE REQUIREMENTS

During the performance of this Agreement, each and every Consultant, Vendor, Contractor and/or Service Provider, for itself, its assignees, and successors in interest (hereinafter collectively referred to as "the Contractor") agrees and promises to comply with the County's insurance coverage requirements as set forth herein.

1. **CONTRACTOR'S OBLIGATIONS.** The Contractor shall procure and maintain during the term of this Agreement and at the sole expense of the Contractor, the policies of insurance coverage with the coverage limits equal to or greater than the amounts enumerated herein. The Contractor bears sole responsibility for any self-insured retention or deductible losses under each of the required policies. Every policy required by the County, including any required endorsements and any umbrella or excess policy coverage, shall be primary insurance. Insurance carried by the County, its officers, or its employees, if any, shall be excess and not contributory insurance to that provided by the Contractor.

a. The Contractor shall provide the County with a Certificate of Insurance naming the County as Certificate Holder and "**Additional Insured on a Primary and Non-Contributory Basis**" prior to the commencement of any work under this Agreement. The County's failure to object to the contents of the Certificate of Insurance provided by the Contractor or the absence of same shall not be deemed a waiver of any and all rights held by the County under this Agreement.

b. In the event the Contractor utilizes a Subcontractor for any portion of the work under this Agreement, then the Subcontractor shall provide insurance of the same type or types as required herein from the Contractor and to the same extent of coverage as that provided by the Contractor and the Contractor shall provide to the County the Certificates of Insurance for the Subcontractor which shall name the County as Certificate Holder and "**Additional Insured on a primary and non-contributory basis**" prior to the commencement of any work under this Agreement by the Subcontractor.

c. Every required coverage type shall be "occurrence basis" except for Professional Errors and Omissions Coverage, which may be "claims made" coverage. The Contractor may utilize umbrella/excess liability coverage to achieve the limits required hereunder; such coverage must be at least as broad as the primary coverage.

d. All insurance shall be provided by insurance carriers licensed and admitted to do business in the State of New York and must be rated "A-:VII" or better by A.M. Best (Current Rate Guide).

e. The County Attorney and/or their designee must approve all insurance certificates submitted by the Contractor prior to the County accepting and executing this Agreement at Page One.

f. The County reserves the right to request certified copies of any policy or endorsement thereto which shall be produced within three (3) business days of a written request delivered by email or as otherwise provided by this Agreement.

g. If the Contractor fails to procure and maintain the required coverage(s) and minimum limits for the Contractor or any Subcontractor, then such failure shall constitute a material breach of a precondition to the County entering into this Agreement, or in the

alternative, a material breach of this Agreement once executed by the County, thereafter authorizing the County to exercise any rights it has in law or equity, including but not limited to any or all of the following:

- 1) immediate termination of the Agreement;
- 2) withholding any/all payment(s) due under this Agreement, or any other Agreement between the County and Contractor (common law set-off); or
- 3) procuring or renewing any required coverage(s) or any extended reporting period thereto and paying any premiums in connection therewith.

h. All monies so paid by the County for insurance coverage of the Contractor shall be repaid upon demand, or at the County's option may be offset against any monies due to the Contractor.

2. **COVERAGE REQUIREMENTS GENERALLY.** For every Agreement, the Contractor shall name the "County of Warren" as a Certificate Holder and Additional Insured on a Primary and Non-contributory basis for the following coverage for work performed under this Agreement, as follows:

a. **Commercial General Liability** including Completed Products and Operations and Personal Liability Insurance: One Million Dollars (\$1,000,000.00) per Occurrence with a Two Million Dollars Aggregate (\$2,000,000.00);

b. **Commercial Automobile Insurance:** One Million Dollars (\$1,000,000.00) Combined Single Limit for Owned, Hired and Non-Owned Vehicles;

c. **NYS Statutory Workers Compensation, Employer's Liability and Disability Insurance:** See, Exhibit "B" at Section 12. Failure to secure compensation for the benefit of, and keep insured during the life of this Agreement, employees required in compliance with the provisions of Workers' Compensation Law shall make this Agreement void and of no effect.

d. **Excess Insurance Requirements** shall be based upon the Total Amount of Award for this Agreement, as recorded upon Page One, section 7, as follows:

- 1) Awards of One Dollar (\$1.00) through One Hundred Thousand Dollars (\$100,000): One Million Dollars (\$1,000,000) per Occurrence Aggregate;
- 2) Awards of One Hundred and One Dollars (\$100,001) through Five Hundred Thousand Dollars (\$500,000): Three Million Dollars (\$3,000,000) per Occurrence Aggregate; and
- 3) Awards of Five Hundred and One Dollars (\$500,001) through One Million Dollars (\$1,000,000): Five Million Dollars (\$5,000,000) per Occurrence Aggregate; and
- 4) Awards of One Million and One Dollars (\$1,000,001) or more: Ten Million Dollars (\$10,000,000) per Occurrence Aggregate, or by separate negotiated agreement approved by the Warren County Attorney.

3. **SPECIFIC ADDITIONAL COVERAGE REQUIREMENTS.** Only for Agreements involving the following *specific types of products, services or work*, the Contractor shall comply with the coverage requirements set forth in sections 2a through 2d, and the additional coverages set forth below which coverages shall also name the "County of Warren" as a Certificate Holder for the following *additional* coverages:

- a. **Professional Services Agreements:**
 - 1) **Professional Errors and Omissions** coverage of Two Million Dollars (\$2,000,000) per Claim Aggregate; and
 - 2) **Excess Insurance** coverage of Three Million Dollars (\$3,000,000) per Occurrence Aggregate.
- b. **Pollution Risk or Exposure, Environmental Hazard, Asbestos Abatement:**
 - 1) **Professional Errors and Omissions:** Two Million Dollars per Claim Aggregate;
 - 2) **Excess Insurance** coverage of Five Million Dollars (\$5,000,000) per Occurrence Aggregate;
 - 3) **Pollution Liability Insurance including Coverage for Asbestos Abatement** coverage of One Million Dollars (\$1,000,000) per Occurrence Aggregate.
- c. **Special Circumstances Involving Aerial Photography:**
 - 1) Proof of FAA licensure for each operator; and
 - 2) Commercial Aviation Liability Insurance: One Million Dollars (\$1,000,000) Combined Single Limit per claim/occurrence aggregate including coverage for property damage, bodily injury, and personal and advertising injury covering the named operator and the insured.
 - 3) **Excess Insurance** coverage of Three Million Dollars (\$3,000,000) per Occurrence Aggregate
- d. **Software and Technology, including the electronic transfer of data between the Contractor and County as a primary method for completing the work under the Agreement, and excluding computer application subscriptions and hardware (without regard for the Total Amount of Award):**
 - 1) **Cyber /Privacy Liability Insurance:** Two Million Dollars (\$2,000,000) per Occurrence Aggregate and shall include coverage for Privacy Notification Expenses, Third Party claims including regulatory defense and payment of fines or penalties, and First Party claims including Data Recovery Costs, Cyber Extortion, and data in the care, custody and control of the insured;
 - 2) **Excess Insurance:** Five Million Dollars (\$5,000,000) per Occurrence Aggregate; and
 - 3) **Technology Errors and Omissions:** Two Million Dollars (\$2,000,000) per Claim Aggregate

4. **NOTIFICATION OF CHANGES TO INSURANCE COVERAGE.** The Contractor shall notify the County as required by Exhibit "B" Section 35, within two (2) business days of the cancellation or any substantive change of any insurance policy required for this Agreement herein, and failure to do so shall be deemed a material breach of this Agreement which shall subjects the Contractor to liability for damages, indemnification and all other legal remedies available to the County.

ARTICLE TWO: INDEMNIFICATION

During the performance of this Agreement, each and every Consultant, Vendor, Contractor and/or Service Provider, for itself, its assignees, and successors in interest (hereinafter collectively referred to as "the Contractor") agrees and promises, to the fullest extent provided by law, to defend, indemnify, and hold harmless the County, its Officers, Employees, and Agents, from and against all claims, damages, losses and expense (including, but not limited to, attorneys' fees, costs and disbursements), which arise out of or result from the performance of the work covered by this Agreement, which are sustained by any person, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of property caused by the tortious act or the negligent act or omission of the Contractor, or its officers, members, partners, employees, agents, subcontractors, or anyone for whom the Contractor is legally liable.

Without limiting the generality of the preceding paragraphs, the following shall be included in the indemnity of the County: any and all such claims, etc., relating to personal injury, death, damage to property, or any actual or alleged violation of any applicable statute, ordinance, administrative order, executive order, rule or regulation, to include the non-discrimination provision in Exhibit "B" at paragraph 10 of the Agreement and Exhibit "D" of the Agreement, or the decree of any court of competent jurisdiction in connection with, or arising directly or indirectly from, intentional conduct, errors and/or negligent acts by the Contractor, or its officers, members, partners, employees, agents, subcontractors, or anyone for whom the Contractor is legally liable. The Contractor's responsibility under this section shall not be limited to the insurance coverage required by this Agreement or the insurance available to the Contractor or any Subcontractor.

Compliance with Federal and New York State Regs
EXHIBIT D

County of Warren

Version 1.03 (eff. 4-23-2025)

During the performance of this Agreement, each and every Consultant, Vendor, Contractor and/or Service Provider, for itself, its assignees, and successors in interest (hereinafter collectively referred to as "the Contractor") agrees and promises to comply with non-discrimination requirements set forth at Section 10 of Exhibit B to this Agreement, as well as the terms and conditions herein and following non-discrimination statutes and authorities:

1. **COMPLIANCE WITH REGULATIONS:** The Contractor will comply with the Acts and the Regulations relative to Non-Discrimination in Federally-assisted programs of the U.S. Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **NON-DISCRIMINATION:** The Contractor, with regard to the work performed by it during the Contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including the procurement of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **SOLICITATIONS FOR SUBCONTRACTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT:** In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this Contract and the Acts and the Regulations relative to Non-Discrimination on the grounds of race, color, or national origin.
4. **INFORMATION AND REPORTS:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the County of Warren to be pertinent to ascertain compliance with such Acts, Regulations and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the County of Warren, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **SANCTIONS FOR NONCOMPLIANCE:** In the event of the Contractor's noncompliance with the Non-Discrimination provisions of this Contract, the County of Warren will impose such Contract sanctions as it may determine to be appropriate, including, but not limited to: (a) Withholding payments to the Contractor under the Contract until the Contractor complies; and/or (b) Cancelling, terminating, or suspending a Contract, in whole or in part.
6. **INCORPORATION OF PROVISIONS:** The Contractor will include the provisions of paragraphs one through six of this Exhibit "D" in every subcontract, including the procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor shall take all reasonable action with respect to any subcontract or procurement as the County of Warren may direct as a means of enforcing such provisions, including but not limited to sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened

with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the County of Warren to enter into any litigation to protect the interests of the County of Warren. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

PERTINENT NON-DISCRIMINATION AUTHORITIES:

1. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.5(a);
2. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC ch.61 and 42 USC § 4605(b)(2)(B)), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
3. Federal-Aid Highway Act of 1973, (23 USC § 324 *et seq.*), (prohibits discrimination on the basis of sex);
4. Section 504 of the Rehabilitation Act of 1973, (29 USC § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.7;
5. The Age Discrimination Act of 1975, as amended, (42 USC § 6101 *et seq.*), (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987, (PL 100-259), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC § 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
9. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
10. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
11. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC §1681).

This Associate Agreement is made by and between the County of Warren (hereafter, "the County" or "the Covered Entity"), the covered entity under this Associate Agreement and the Contractor (hereafter, "Contractor" or "Business Associate") and each Party agree to be bound by the following clauses which are hereby made a part of and incorporate by reference therein to every Agreement with a Contractor involving access, use and/or disclosure of confidential protected health information, as more fully described below, and to the extent applicable:

WHEREAS, the County maintains certain confidential protected health information concerning its patients and/or residents (each referred to as an Individual), and such information includes information created or received by the County or created, maintained, transmitted or received by the Contractor (the PHI), and includes electronic protected health information (EPHI); and

WHEREAS, as a result of their access to and use and disclosure of PHI and EPHI, the County and Contractor acknowledge that they are obligated to comply with the applicable provisions of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations including, but not limited to, the Security Standards for the Protection of Electronic Protected Health Information (the Security Rules) and the Privacy of Individually Identifiable Health Information standards (the Privacy Rule) (collectively, "the HIPAA Requirements"); and

WHEREAS, the parties are obligated under the HIPAA Requirements to enter into a written agreement under which the Contractor will agree to appropriately protect and safeguard PHI and EPHI; and

WHEREAS, the Contractor and the County have entered into an agreement (the Agreement), under which the Contractor provides services to the County and, in the course of providing those services, the Contractor may or will have access to PHI and EPHI; and

WHEREAS, the Health Information Technology for Economic and Clinical Health Act of the American Recovery and Reinvestment Act of 2009 includes new standards and has new implementing regulations which provide that certain provisions of the HIPAA Requirements are directly applicable to Contractors and that any existing Contractor agreements must be updated to address these new standards (collectively referred to as "the HITECH Act"); and

WHEREAS, the HIPAA Requirements and the new provisions of the HITECH Act shall collectively be known in this Agreement as the HIPAA Rules;

NOW THEREFORE, the parties agree as follows:

1. DEFINITIONS.

- a. Individual: "Individual" shall have the same meaning as the term "individual" in the HIPAA Rules and shall

include a person who qualifies as a personal representative in accordance with the HIPAA Rules.

- b. Privacy Rule: "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information as set forth in the HIPAA Rules.
- c. Protected Health Information and Electronic Protected Health Information: "Protected Health Information" and "Electronic Protected Health Information" (hereinafter, PHI and EPHI, respectively) shall have the same meaning as the term "protected health information" and "electronic protected health information" in HIPAA Rules, limited to the information created or received by the Contractor from or on behalf of the Covered Entity.
- d. Required by Law: "Required by Law" shall have the same meaning as the term "required by law" in the HIPAA Rules.
- e. Secretary: "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
- f. Catch-all definition: Terms used, including but not limited to Breach, Data Aggregation, Disclosure, Health Care Operations, Limited Data Set, Minimum Necessary, Notice of Privacy Practices, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use in this Agreement shall have the same meaning as those terms in the HIPAA Rules.

2. USE AND DISCLOSURE OF PHI AND EPHI.

- a. The Contractor will hold and keep the PHI and EPHI strictly confidential and use and/or disclose PHI and EPHI only as required or permitted under the terms of the Agreement and the HIPAA Rules. However, the HIPAA Rules limit the use and/or disclosure of PHI and EPHI by the Covered Entity, and those restrictions also apply to the Contractor and the Contractor's Subcontractors that create, receive, transmit or maintain PHI and/or EPHI in order to perform a function, activity or service delegated by the Contractor. This means that any use and/or disclosure must be related to the treatment of the Individual to whom the PHI and EPHI relates, payment for the treatment of that Individual, or the Covered Entity's general Health Care Operations.
- b. The Contractor may also use and/or disclose the PHI and EPHI for the proper management and administration of the Contractor, or to carry out the legal responsibilities of the Contractor. However, such use and/or disclosure must be either required by law or, prior to making use of the PHI and EPHI or disclosing the PHI and EPHI, the Contractor must obtain reasonable assurance from the person to whom the PHI and EPHI will be disclosed that the PHI and EPHI: (i) will be held confidentially and used or further disclosed only as Required By Law or for the purpose for which it was disclosed; and (ii) the person to whom

it is disclosed agrees to notify the Contractor of any instance of which it is aware in which the confidentiality of the PHI and EPHI has been breached.

- c. The Contractor may also use the PHI and EPHI to provide data aggregation services to the Covered Entity. Data aggregation means, with respect to PHI and EPHI, the combining of the PHI and EPHI by the Contractor with Protected Health Information received by the Contractor in its capacity as a Contractor of another health care provider to permit data analysis that relates to the health care operations of the Covered Entity and the other health care provider.
- d. The Contractor will not use or further disclose the PHI and EPHI other than as permitted or required by this Agreement, by applicable law, or by the HIPAA Rules.

3. THE COVERED ENTITY'S OBLIGATIONS.

- a. The Covered Entity shall notify Contractor of any limitation(s) in the Notice of Privacy Practices of The Covered Entity, to the extent that such limitation may affect Contractor's Use or Disclosure of PHI and EPHI.
- b. (b) The Covered Entity shall notify Contractor of any changes in, or revocation of, the permission by an Individual to Use or Disclose his or her PHI and EPHI, to the extent that such changes may affect Contractor's Use or Disclosure of PHI and EPHI.
- c. (c) The Covered Entity shall notify Contractor of any restriction on the Use or Disclosure of PHI and EPHI that The Covered Entity has agreed to or is required to abide by, to the extent that such restriction may affect Contractor's Use or Disclosure of PHI and EPHI.

4. HIPAA SAFEGUARD REQUIREMENTS.

- a. The Contractor will use appropriate safeguards to prevent any Use or Disclosure of PHI and EPHI that is not permitted under the terms of this Associate Agreement. Specifically, the Contractor will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI and EPHI that it creates, receives, maintains or transmits on behalf of the Covered Entity.
- b. The Contractor will ensure that any of its agents, including a Subcontractor, to whom the Contractor provides PHI and EPHI, will enter into a Contractor Agreement with Contractor and agree to the same restrictions and conditions that apply to the Contractor under the terms of this Associate Agreement, and will agree to implement reasonable and appropriate safeguards as required by the HIPAA Rules to protect the PHI and EPHI.
- c. The Contractor may use and disclose PHI and EPHI that the Contractor obtains, maintains, transmits or creates only if such Use or Disclosure is in compliance

with each applicable requirement of the HIPAA Rules relating to Contractor Agreements. The additional requirements of the HITECH Act that relate to privacy and that are made applicable to the Covered Entity shall also be applicable to the Contractor. The Contractor shall comply with these privacy requirements which shall be incorporated into this Associate Agreement.

- d. Under the HIPAA Rules the requirements pertaining to administrative safeguards, physical safeguards, technical safeguards, and policies and procedures and documentation requirements of the Security Rules apply to the Contractor in the same manner that such sections apply to the Covered Entity, and the additional requirements of the HITECH Act that relate to security and that are made applicable to the Covered Entity shall also be applicable to the Contractor. The Contractor shall comply with these security requirements which shall be incorporated into this Associate Agreement.
- e. Unless the Covered Entity agrees, in writing, that this HITECH Act requirement is not feasible with respect to particular PHI or EPHI, Contractor shall secure all PHI and EPHI by utilizing a technology standard or methodology that renders PHI and EPHI unusable, unreadable, or indecipherable to unauthorized individuals and is consistent with guidance, as further amended in the future, issued by the Secretary of the Department of Health and Human Services (the Secretary) specifying the technologies and methodologies that render PHI and EPHI unusable, unreadable, or indecipherable to unauthorized individuals.
- f. Except as otherwise allowed in this Associate Agreement and the HIPAA Rules, Contractor shall not directly or indirectly receive remuneration in exchange for any PHI or EPHI of an Individual unless the Individual has provided a valid, HIPAA-compliant authorization, including a specification of whether the PHI or EPHI can be further exchanged for remuneration by the receiving party.
- g. Except as otherwise provided in the HIPAA Rules, the Contractor shall not directly or indirectly receive payment in exchange for making certain communications to Individuals about a product or service that encourages the recipient to purchase or use the product or service.
- h. The Contractor will report to the Covered Entity's Privacy and/or Security Official, within five (5) business days, any Use or Disclosure of PHI and EPHI not provided for by this Associate Agreement. The Contractor shall conduct and document a risk assessment, in accordance with the HIPAA Rules, of such unauthorized Use or Disclosure and provide the Covered Entity with a copy of such risk assessment upon the Covered Entity's request. In the event the

- Contractor concludes the unauthorized Use or Disclosure constitutes a Breach of Unsecured Protected Health Information, Contractor shall provide to the Covered Entity the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Contractor to have been, accessed, Used, acquired, or Disclosed during such Breach, as well as such other information required by the HIPAA Rules. A Breach shall be treated as discovered by the Contractor as of the first day on which such Breach is known to such Contractor (including any person, other than the individual committing the Breach, that is an employee, officer, or other agent of the Contractor) or should reasonably have been known to the Contractor to have occurred.
- i. The Covered Entity, in its sole and absolute discretion, may elect to delegate to the Contractor the requirement under the HIPAA Rules to notify affected Individuals of a Breach of Unsecured Protected Health Information if such Breach results from, or is related to, an act or omission of the Contractor or the agents or representatives of the Contractor. If the Covered Entity elects to make such a delegation, the Contractor shall perform such notifications and undertake all related remediation activities that are reasonably required (i) at the Contractor's sole cost and expense, and (ii) in compliance with all applicable requirements, including the HIPAA Rules. The Contractor shall also provide the Covered Entity with the opportunity, in advance, to review and approve of the form and content of any such Breach notification that the Contractor provides to Individuals.
 - j. The Contractor will respond to a request for, changes in, or a revocation of, permission by an Individual to restrict the Contractor's Use or Disclosure of PHI or EPHI, in a timely manner in accordance with the HIPAA Rules, and to make changes to the Contractor's procedures to the extent that such request, if approved, may affect the Contractor's Use or Disclosure of PHI or EPHI. The Contractor will monitor compliance with these requests for restrictions in accordance with the HIPAA Rules.
 - k. The Contractor will use, disclose, or request PHI or EPHI, only if it limits such PHI or EPHI, to the extent practicable, to a Limited Data Set, or, if needed by the entity, to the Minimum Necessary to accomplish the intended purposes of such Use, Disclosure, or request. In the case of the Disclosure of PHI or EPHI, the Contractor, in conjunction with the Covered Entity, shall determine what constitutes the Minimum Necessary to accomplish the intended purposes of such Disclosure.
 - l. The Contractor recognizes that civil and criminal penalties for a violation of the HIPAA Rules, as such violation is detailed in this Associate Agreement, shall apply to the Contractor with respect to such violation in the same manner as such penalties apply to the Covered Entity.
 - m. The Contractor will comply with any periodic audit request initiated by the Secretary to ensure that the Contractor is complying with the HIPAA Rules.
 - n. The Contractor will not acquire any title or rights to the PHI or EPHI, including any de-identified information, as a result of this Associate Agreement.
 - o. The Contractor will immediately report to the Covered Entity any Use or Disclosure of the PHI and EPHI that is not permitted under the terms of this Associate Agreement, provided that the Contractor becomes aware of such improper Use or Disclosure. The Contractor will also immediately report to the Covered Entity any Security Incident of which it becomes aware.
5. ACCESS TO HIPAA INFORMATION.
- a. The Contractor will make its internal books and records relating to the Use and Disclosure of PHI and EPHI available to the Covered Entity and to the Secretary, for the purpose of the Secretary determining whether the Covered Entity has complied with the HIPAA Rules, at the request of the Covered Entity and at a time and in a manner designated by the Covered Entity.
 - b. The Contractor will provide access to PHI and EPHI in its possession to the Covered Entity or, as directed by the Covered Entity, to an Individual, in order to meet the Covered Entity's obligations to provide access to the PHI and EPHI to the Individual. Access will be provided at the request of the Covered Entity and at a time and in a manner designated by the Covered Entity.
 - c. The Contractor will provide access to PHI and EPHI in its possession to the Covered Entity, or as directed by the Covered Entity, so that the Covered Entity can amend the PHI and EPHI as required under the HIPAA Rules. Access will be provided at the request of the Covered Entity and at a convenient time at the Warren County Municipal Center and in a manner designated by the Covered Entity. The Contractor will also make any amendment to the PHI and EPHI that is requested by the Covered Entity as a result of the Individual having requested such an amendment.
 - d. The Contractor will provide access to PHI and EPHI in its possession to the Covered Entity or, as directed by the Covered Entity, in order for the Covered Entity to provide an accounting of Disclosures which it is required to do under the HIPAA Rules. Access will be provided at the request of the Covered Entity and at a time and manner designated by the Covered Entity.

EXHIBIT F

Supplemental Terms & Conditions: Computer Hardware, Software, Coding and Cloud Computing

County of Warren, NY

(Version 1.03 eff. 4/23/2025)

The Contractor, for itself, its assignees, and successors-in-interest (hereinafter collectively referred to as "the Contractor") acknowledge and agree that if this Agreement involves the purchasing of computer hardware, purchase or licensing of software, or cloud computing services, then the Contractor agrees and accepts at these supplemental terms and conditions are incorporated into the parties' Agreement:

1. **Definitions:**

- a. **Computer Hardware:** The physical components of a computer system, including both internal devices that work together to enable a computer to process information, store data, and communicate with the user.
- b. **Data Breach:** A security incident where unauthorized individuals access or disclose confidential or sensitive information caused by intentional hacking or accidental events.
- c. **Data Security:** Measures taken to protect digital information from unauthorized access, corruption or theft throughout the digital information's lifecycle.
- d. **Intellectual Property:** A creation of the mind such as inventions, literary works, artistic works, program coding or pictorial images to which one has legal rights to and for which one may apply for a patent, copyright or trademark.
- e. **Personal Data:** Information specific to an individual that may directly or indirectly identify them by an identification number, location data, physiological, genetic, mental, commercial, cultural or social identity.

2. **Responsibilities of the Parties (Hardware & Software):** The Contractor shall work with the County's Information Technology staff to design and install hardware and/or software systems that are in conformance with County IT infrastructure and programming including data security protocols. The County shall take possession of the management and control of the product and/or services provided under this agreement upon the accepted completion of the project and shall assume full responsibility for the County's content maintenance and administration.

3. **Representations and Warranties.**

a. **Contractor's Warranties.** The Contractor represents and warrants as follows:

- i. **Authority.** The Contractor has the full power, capacity and authority to enter into and perform this Agreement and to make the grant of rights contained herein, including without limitation, the right to license any ancillary

or third party programs licensed to the County under this Agreement, and the Contractor's performance of this Agreement does not violate or conflict with any agreement to which the Contractor is a party; The Contractor further represents that there is no pending or threatened litigation that would have a material adverse impact on its performance under this Agreement;

ii. **Conformance to Specifications.** All Services and Deliverables shall materially conform to the Specifications during the Term;

iii. **Non-Infringement.** The Services and the Deliverables (excluding any of the County's Property) shall not infringe upon or violate the intellectual property rights of any third party;

iv. **No Offshore Work.** The Contractor further warrants that all Services shall be performed and rendered within the continental United States. In particular, the Contractor warrants that it shall not transmit or make available any Confidential Information of the County, to include Personal Data, or County Property to any entity or individuals outside the continental United States;

v. **Documentation; Material Diminution in Features.** The Documentation shall be complete and accurate so as to enable a reasonably skilled person to effectively use all of its features and functions without assistance from the Contractor and, on each date on which Contractor delivers it to the County, the Documentation is Contractor's most current version thereof; provided that, without the prior written approval of the County, in no event shall any Documentation reflect a material diminution in the form, features or functionality of the Services from that originally licensed under this Agreement, and, accordingly, the Contractor shall not change the form, features or functionality in any material adverse manner from that originally licensed under this Agreement;

vi. **Assignment of Warranties.** The Contractor hereby assigns and agrees to deliver to the County all representations and warranties received by the Contractor from its third-party licensors and suppliers;

vii. **Viruses and Destructive Code.** The Contractor shall use reasonable efforts to ensure the Services and Deliverables do not include or transmit any viruses, Trojan Horses, worms, spyware, or other similarly destructive or malicious code;

viii. **Legal and Accreditation Requirements.** The Services currently comply with all other existing federal, state and local laws; and the Contractor shall provide the County with the functionality necessary for the County to comply with all new, amended, or otherwise modified laws, applicable to the Services at no additional charge to The County;

EXHIBIT F

Supplemental Terms & Conditions: Computer Hardware, Software, Coding and Cloud Computing

County of Warren, NY

(Version 1.03 eff. 4/23/2025)

ix. **Compliance with Privacy Policy, Laws, and Regulations.** The Contractor shall comply with all applicable laws and regulations in its performance of this Agreement, including, but not limited to, all local, state, federal, and international privacy, confidentiality, consumer protection, advertising, electronic mail, data security, data destruction, and other similar laws, rules, and regulations, whether in effect now or in the future;

x. **Known Performance Issues.** There is no existing pattern or repetition of customer complaints regarding the Services and Deliverables, including functionality or performance issues, and that the Contractor's engineers have not currently identified any repeating adverse impact on the Services or Deliverables, including functionality or performance, for which the root cause is believed to be a flaw or defect in the Services or Deliverables. The foregoing warranty shall not extend to any specifications provided by the County;

xi. **Computer Hardware.** Contractor warrants that, under normal use and service, the Computer Hardware shall be free from defects in material and workmanship for a period of sixty (60) days after delivery and acceptance of the Computer Hardware to the County. The foregoing warranty shall not apply to consumables or portions of the Computer Hardware that are expendable by their nature;

i. If the Computer Hardware fails to meet the warranties of Section xi and the County gives Contractor written notice thereof during the warranty period, the Contractor may correct the failure by repair, replacement, or adjustment; or at the County's option and sole discretion, the Contractor may take back the computer hardware and return the purchase price to the County within thirty (30) after the County provides the Contractor written notice of the defect, whereupon the Contractor shall have no further obligation to the County;

ii. The County shall be solely responsible for the selection, use, efficiency, and suitability of the Computer Hardware; and

iii. The Contractor shall not be liable to County for the warranty provisions of this Section xi, if: Modifications are made to the Computer Hardware by other than the Contractor; Attachments, features, or devices are employed on the Computer Hardware that are not supplied by the Contractor and are not approved in writing by the Contractor; Other than the current version of the operating system software available from the Contractor is used on the Computer Hardware; or the computer hardware is subject to misuse or abuse.

b. **The County's Warranty.** The County represents and warrants that the County shall have the full power to enter into and perform this Agreement and to make the grant of rights contained herein, and the County's performance of

this Agreement shall not violate or conflict with any agreement to which The County is a party.

4. **The County's Property.** "The County's Property" means any property or intellectual property provided by the County, or its agents, to the Contractor for use in connection with the Services, including, but not limited to, any data, images, programming, computer code, photographs, illustrations, graphics, audio clips, video clips, or text. The County grants the County a non-exclusive, non-transferable, non-sublicensable, terminable at-will license to use the County's Property solely for the County's benefit in performing the Services. Upon the County's written request or upon expiration of this Agreement or termination of this Agreement for any reason, the foregoing license shall immediately terminate. All County Property shall be deemed County Confidential Information.

5. **Confidentiality.**

a. **Confidential Information.** Except as provided in Exhibit B, section 19, and Exhibit E (Standard Business Associate Agreement), each Party agrees that all information supplied by one Party and its affiliates and agents (collectively, the "**Disclosing Party**") to the other ("**Receiving Party**") including, without limitation, (i) source code, prices, trade secrets, databases, designs and techniques, engine protocols, models, displays and manuals, and the selection, coordination, and arrangement of the contents of such materials; and (ii) any unpublished information concerning research activities and plans, customers, marketing or sales plans, sales forecasts or results of marketing efforts, pricing or pricing strategies, costs, operational techniques, strategic plans, information relating to the County's customers, business partners, and personnel, Personal Data (as defined below), and unpublished financial information, including information concerning revenues, profits and profit margins will be deemed confidential and proprietary to the Disclosing Party, regardless of whether such information was disclosed intentionally or unintentionally or marked as "confidential" or "proprietary" ("**Confidential Information**"), provided, however, that Work Product assigned to the County pursuant to this Agreement shall be Confidential Information of the County.

b. **Exclusions.** Confidential Information will not include any information or material, or any element thereof, whether or not such information or material is Confidential Information for the purposes of this Agreement, to the extent any such information or material, or any element thereof: (a) has previously become or is generally known, unless it has become generally known through a breach of this Agreement or a similar confidentiality or non-disclosure

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agreement, obligation or duty; (b) was already rightfully known to the Receiving Party prior to being disclosed by or obtained from the Disclosing Party as evidenced by written records kept in the ordinary course of business or by proof of actual use by the Receiving Party; (c) has been or is hereafter rightfully received by the Receiving Party from a third person (other than the Disclosing Party) without restriction or disclosure and without breach of a duty of confidentiality to the Disclosing Party; or (d) has been independently developed by the Receiving Party without access to Confidential Information of the Disclosing Party. It will be presumed that any Confidential Information in a Receiving Party's possession is not within exceptions (b), (c) or (d) above, and the burden will be upon the Receiving Party to prove otherwise by records and documentation.

c. **Treatment of Confidential Information.** Each Party recognizes the importance of the other's Confidential Information. In particular, each Party recognizes and agrees that the Confidential Information of the other is critical to their respective businesses and that neither Party would enter into this Agreement without assurance that such information and the value thereof will be protected as provided in this Section 12 and elsewhere in this Agreement. Accordingly, each Party agrees as follows: (a) the Receiving Party will hold any and all Confidential Information it obtains in strictest confidence and will use and permit use of Confidential Information solely for the purposes of this Agreement. Without limiting the foregoing, the Receiving Party shall use at least the same degree of care to avoid disclosure or use of this Confidential Information as the Receiving Party employs with respect to its own Confidential Information of a like importance, which shall not be less than the standard of care imposed by applicable laws and regulations relating to the protection of such information and, in the absence of any legally imposed standard of care, the standard shall be that of a reasonable person under the circumstances; (b) the Receiving Party may disclose or provide access to its responsible employees who have a need to know and may make copies of Confidential Information only to the extent reasonably necessary to carry out its obligations hereunder; and (c) the Receiving Party currently has, and for so long as it possesses Confidential Information of the Disclosing Party, it will maintain in effect and enforce, rules and policies to protect against access to or use or disclosure of Confidential Information other than in accordance with this Agreement, including without limitation written instruction to any agreements with employees and agents who are bound by an obligation of confidentiality no less restrictive than set forth in this Agreement to ensure that such employees and agents protect the confidentiality of Confidential Information. The Receiving Party will instruct and require its employees and agents not to disclose Confidential Information to third

parties, including without limitation customers, subcontractors or consultants, without the Disclosing Party's prior written consent; and will notify the Disclosing Party immediately of any unauthorized disclosure or use, and will cooperate with the Disclosing Party to protect all proprietary rights in and ownership of its Confidential Information.

d. **Personal Data.** In connection with this Agreement and performance of the Services, The Contractor may be provided or obtain, from the County or otherwise, Personal Data, as defined below, pertaining to the County's personnel, directors and officers, agents, subcontractors, investors, and customers and (ii) may need to process such Personal Data and/or transfer it, all subject to the restrictions set forth in this Agreement and otherwise in compliance with all applicable foreign and domestic laws and regulations for the sole purpose of performing the Services. For purposes of this Agreement, "**Personal Data**" shall mean any information relating to an identified or identifiable individual. For the avoidance of doubt, Personal Data shall include, but not be limited to, all "nonpublic personal information," as defined under the Gramm-Leach-Bliley Act (15 United States Code ("**U.S.C.**") § 6801 et seq.), "protected health information" as defined under the Health and Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d), "cardholder information" under the Payment Card Industry ("**PCI**") Data Security Standard, and "Personal Data" as that term is defined in EU Data Protection Directive (Directive 95/46/EEC) on the protection of individuals with regard to processing of personal data and the free movement of such data. "Process" or "Processing" shall mean any operation or set of operations performed upon the Personal Data, whether or not by automatic means, including collection, recording, organization, use, transfer, disclosure, storage, manipulation, combination and deletion of Personal Data.

e. **Treatment of Personal Data.** Without limiting any other warranty or obligation specified in this Agreement, and in particular the confidentiality provisions of this section, during the Term and thereafter in perpetuity, The Contractor will not gather, store, log, archive, use or otherwise retain any Personal Data in any manner and will not disclose, distribute, sell, share, rent or otherwise transfer any Personal Data to any third party, except as expressly required to perform its obligations under this Agreement or as The Contractor may be expressly directed in advance in writing by the County. The Contractor represents, covenants, and warrants that the Contractor will use Personal Data only in compliance with (i) this Agreement, (ii) the County's current privacy policy, Warren County Policy for Red Flags Identity Theft Prevention, Resolution 485 of 2024, effective December 20, 2024, available at www.Warrencountyny.gov/MMA, and (iii) all applicable local,

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state, federal, and international laws and regulations (including but not limited to all current and future laws and regulations relating to privacy, confidentiality, consumer protection, advertising, electronic mail, data security, data destruction, and other similar laws, rules, and regulations). The Contractor will immediately notify the County of any actual or suspected breach of confidentiality or security with regard to Personal Data. At no additional charge or cost to the County, The Contractor will fully cooperate with the County in investigating the breach, including, but not limited to, the provision of system, application, and access logs, conducting forensics reviews of relevant systems, imaging relevant media, and making personnel available for interview. On notice of any actual or suspected breach, the Contractor will immediately institute appropriate controls to maintain and preserve all electronic evidence relating to the breach in accordance with industry best practices. In the event any breach of security or confidentiality with regard to Personal Data by the Contractor or its agents requires notification to an individual under any law, rule, or regulation, the County will have sole control over the timing, content, and method of notification and the Contractor will promptly reimburse the County for all costs and expenses incurred as a result of the breach, including but not limited to, notice, print and mailing costs, and the costs of obtaining credit monitoring services and identity theft insurance for the individuals whose Personal Data was or may have been compromised. At no charge to the County, The Contractor will cooperate with the County and any regulator or other governmental entity having jurisdiction over the County or the Personal Data relating to the Contractor's performance of this Agreement and possession and use of the Personal Data.

f. **Retention of Personal Data.** The Contractor will not retain any Personal Data for any period longer than necessary for the Contractor to fulfill its obligations under this Agreement. As soon as the Contractor no longer needs to retain such Personal Data in order to perform its duties under this Agreement, the Contractor will promptly return or destroy or erase all originals and copies of such Personal Data.

g. **Compelled Disclosures.** To the extent required by applicable law or by lawful order or requirement of a court or governmental authority having competent jurisdiction over the Receiving Party, the Receiving Party may disclose Confidential Information in accordance with such law or order or requirement, subject to the following conditions: as soon as possible after becoming aware of such law, order or requirement and prior to disclosing Confidential Information pursuant thereto, the Receiving Party will so notify the Disclosing Party in writing and, if possible, the Receiving Party will provide the Disclosing Party notice not less than

five (5) business days prior to the required disclosure. The Receiving Party will use reasonable efforts not to release Confidential Information pending the outcome of any measures taken by the Disclosing Party to contest, otherwise oppose or seek to limit such disclosure by the Receiving Party and any subsequent disclosure or use of Confidential Information that may result from such disclosure. The Receiving Party will cooperate with and provide assistance to the Disclosing Party regarding such measures. Notwithstanding any such compelled disclosure by the Receiving Party, such compelled disclosure will not otherwise affect the Receiving Party's obligations hereunder with respect to Confidential Information so disclosed.

h. **Return of Confidential Information.** On the County's written request or upon expiration or termination of this Agreement for any reason, the Contractor will promptly: (a) return or destroy, at the County's option, all originals and copies of all documents and materials it has received containing the County's Confidential Information; and (b) deliver or destroy, at the County's option, all originals and copies of all summaries, records, descriptions, modifications, negatives, drawings, adoptions and other documents or materials, whether in writing or in machine-readable form, prepared by the Contractor, prepared under its direction, or at its request from the documents and materials referred to in subparagraph (a), and provide a notarized written statement to the County certifying that all documents and materials referred to in subparagraphs (a) and (b) have been delivered to the County or destroyed, as requested by the County. On termination or expiration of this Agreement, the County shall return or destroy all The Contractor Confidential Information (excluding items licensed to the County hereunder or that are required for use of the Deliverables), at The Contractor's option.

i. **Non-Exclusive Equitable Remedy.** Each Party acknowledges and agrees that due to the unique nature of Confidential Information there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach or threatened breach may allow a Party or third parties to unfairly compete with the other Party resulting in irreparable harm to such Party, and therefore, that upon any such breach or any threat thereof, each Party will be entitled to appropriate equitable remedies and may seek and obtain injunctive relief from a court of competent jurisdiction without the necessity of proving actual loss or posting of a bond or other security, in addition to whatever remedies either of them might have at law or equity. Any breach of this Section 12 will constitute a material breach of this Agreement and be grounds for immediate termination of this Agreement in the exclusive discretion of the non-breaching Party.

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6. **Data Security:** The Contractor will maintain and enforce safety and physical security procedures with respect to its access, use, and possession of the County's Confidential Information, including Personal Data, that are (a) at least equal to industry standards for such types of locations, and (b) which provide reasonably appropriate technical and organizational safeguards against accidental or unlawful destruction, loss, alteration or unauthorized disclosure or access of such information. Without limiting the generality of the foregoing, The Contractor will take all reasonable measures to secure and defend its location and equipment against "hackers" and others who may seek, without authorization, to modify or access the Contractor's systems or the information found therein. The Contractor will periodically test its systems for potential areas where security could be breached. The Contractor will immediately report to the County any breaches of security or unauthorized access to the County's Confidential Information, including Personal Data, that the Contractor detects or becomes aware of. The Contractor will use diligent efforts to remedy such breach of security or unauthorized access in a timely manner and deliver to the County a root cause assessment and future incident mitigation plan with regard to any breach of security or unauthorized access affecting the Confidential Information, including Personal Data. The Contractor shall provide the County all written details regarding the Contractor's internal investigation regarding any security breach. Upon the County's request, the Contractor will provide a second more in-depth investigation and results of findings. The Contractor agrees not to notify any regulatory authority nor any customer or consumer, on behalf of the County, unless the County specifically requests in writing that the Contractor do so. The Contractor and the County will work together to formulate a plan to rectify all security breaches. At a minimum, the Contractor represents, promises and warrants that it shall adhere to the global data protection and privacy laws and their security protocols including, but not limited to the following: General Data Protection Regulation (GDPR); Health Insurance Portability and Accountability Act (HIPAA); Gramm-Leach-Bliley Act (GLBA); and Federal Information Security Management Act (FISMA). The County in the event of a security breach due to the negligence, malicious actions, omissions, or misconduct of the Contractor, the Contractor, as the data custodian of the security breach, will comply and be financially responsible for all remediation efforts as required by applicable federal and state law suffered by the County in the provision of the product and/or services provided.

7. **Intellectual Property:** Intellectual property in the hardware and/or software or other works created or licensed

by the Contractor, including all software source code, documents, and materials used in performing services will remain the property of the Contractor. Contractor property specifically excludes County content. The County shall not license, sublicense, sell, resell, reproduce, transfer, assign, distribute or otherwise commercially exploit or make available to any third party any Contractor property in any way, except as specifically provided in Exhibit A's Scope of Work.

The Contractor grants the County a nontransferable, nontransferable, nonexclusive, non-assignable license to access and use Contractor property associated with any valid and effective Scope of Work provided in Exhibit A for the term of the agreement stated. The Contractor agrees to provide periodic updates to the product and service provided in accordance with County IT standards.

8. **Contractor Support:** The Contractor shall provide support for the product and/or services stated in Exhibit A of this agreement. The County as a government agency reserves the right to obtain emergency services, as needed, and at the agreed upon price structure outlined within Exhibit A, if the County identifies the support for the need for the product and/or services to be an emergency as defined by section 103(4) of the General Municipal Law

9. **Termination Assistance Services.** Upon the expiration of this Agreement or its termination by either Party for any reason, including the breach of this Agreement by the other Party, the rights of the County shall in any and all events be provided as set forth in this Section ("**Termination Assistance Services**"). Unless the Parties have specifically agreed upon a termination transition plan prior to the time of termination (the "**Termination Transition Plan**"), the rights of the County upon any termination shall be as set forth in this Section. If a Termination Transition Plan has been agreed to, then the rights of the County upon any expiration or termination of this Agreement shall be as set forth in the most recent approved Termination Transition Plan, and also as set forth in this Section. In the event of any inconsistency between this Section and the applicable Termination Transition Plan, this Section shall govern. If no Termination Transition Plan has been agreed to by the Parties at the time of any termination of this Agreement, then the Contractor shall continue to perform the services under the Agreement, at performance standards and service levels in effect at the time of termination or expiration, as well as the transition assistance services, which services shall be provided as set forth in this Section. The Contractor shall provide the County with all of the services and all of the transition services as provided in this Section and in the then most recent version

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of the Termination Transition Plan, if any. The duty of the Contractor to provide such services shall be conditioned on the County continuing to comply with its obligations under the Agreement, including payment of all fees. The Contractor shall have no right to withhold or limit its performance or any of such transition services on the basis of any alleged breach of this Agreement by the County, other than a failure by the County to timely pay the amounts due hereunder during the transition period. The County shall have the right to seek specific performance of this Section in any court of competent jurisdiction and the Contractor hereby waives any defense that damages are an adequate remedy. Compliance with this Section by either Party shall not constitute a waiver or estoppel with regard to any rights or remedies available to the Parties. The Contractor will (i) meet with the County as soon as practicable after a notice of termination or notice of a decision to not extend this Agreement has been given, to discuss any potential modifications to the then most current Termination Transition Plan, if any, (ii) use all commercially reasonable efforts to assist the County effecting a transition of the services provided by the Contractor hereunder, in accordance with industry best practices, to the County or another vendor chosen by the County, and (iii) be compensated for all transition related services and costs by payment by the County in accordance with the rates set forth in this Agreement. The Contractor will provide transition services for a period defined in the Termination Transition Plan, if any, but in no event less than six (6) months following the expiration or termination of this Agreement. Thereafter, the Contractor shall provide extensions of transition support services as requested by the County in serial thirty (30) day extension terms for up to an additional six (6) months. The total period of transition support services, including all extensions provided for herein, shall not exceed twelve (12) months.

10. **Marketing:** The Contractor must receive prior written permission from the County before identifying the County, using any of its identifying information including logos and County specific services, and any of the product and/or services provided under Exhibit A of this agreement.