

VOTING SYSTEM AND SERVICES AGREEMENT  
BY AND BETWEEN  
DOMINION VOTING SYSTEMS, INC.  
AND TULARE COUNTY, CA

This Voting Systems and Services Agreement (the “Agreement”), dated May 1, 2019 (the “Effective Date”), is made by and between Tulare County, CA having its principal office located at 5951 S. Mooney Blvd., Tulare, CA 93277 (the “Customer”), and Dominion Voting Systems Inc., having its principal office located at 1201 18<sup>th</sup> Street, Suite 210, Denver, CO 80202 (“Dominion”) a Delaware corporation, registered in California as a foreign corporation. This Agreement may refer to Dominion and the Customer together as the “Parties,” or may refer to Dominion or the Customer individually as a “Party.”

WHEREAS, the Customer desires to purchase a voting system, software use licenses and related services; and

WHEREAS, Dominion designs, manufactures, licenses, and provides services for its voting systems.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and in accordance with the terms and conditions set forth herein, Dominion agrees to license and furnish the System (as defined herein) to the Customer.

1. **Composition of Agreement.** Exhibits A and B are attached and incorporated herein by reference and form a part of this Agreement. This Agreement consists of the terms and conditions contained in the following sections and the listed Exhibits. The total compensation payable under this Agreement shall be in accordance with the item prices incorporated within the Exhibit A attached hereto (Pricing Summary and Deliverables Description) and all other services related to the performance of this Agreement.

Exhibit A: Pricing Summary and Deliverables Description  
Exhibit B: Software License Terms and Conditions

2. **Definitions.** For the purposes of this Agreement, the following are defined terms:
  - 2.1. “Acceptance” and variations thereof, means the successful completion by the Customer of the acceptance testing performed on each component of Dominion Hardware and Software, after delivery in accordance with testing criteria developed and agreed to by the parties, or the occurrence of other events defined in Section 8.
  - 2.2 “Confidential Information” means those materials, documents, data, and technical information, specifications, business information, customer information, or other information that a Party (the “Disclosing Party”) maintains as trade secrets or confidential and which are disclosed to a another Party (the “Receiving Party”) in tangible form marked as “confidential,” or with words having similar meaning, which includes without limitation, Dominion Software and associated documentation.

- 2.3. "Dominion Hardware" means the ImageCast® system hardware as more specifically described in Exhibit A.
  - 2.4. "Dominion Software" means software and firmware programs licensed to the Customer by Dominion and any associated documentation as more specifically described in Exhibit A.
  - 2.5. "Election" means a single election event administered by the Customer including any vote by mail and early voting activity associated with the election event. Election shall not mean any follow-on events occurring after the initial election event, including without limitations, run-offs or recall replacement elections. Any follow on event shall be considered an Election in and of itself.
  - 2.6. "Election Management System Hardware" or "EMS Hardware" means third party hardware required for operating Dominion Software as used in conjunction with the Dominion Hardware.
  - 2.7. "License" has the meaning set forth in Section 7.
  - 2.8. "System" means the combination of Dominion Software, Dominion Hardware and EMS Hardware.
  - 2.9. "Third Party Software" means manufacturer supplied software, or firmware owned by third parties, which Dominion provides to Customer pursuant to sublicenses or end user license agreements with the owners of such Third Party Software. Third Party Software includes, but is not limited to, various operating systems, software drivers, report writing subroutines, and firmware.
3. **Term of Agreement.** The Term of this Agreement shall begin on the Effective Date and shall continue until April 30, 2026 unless sooner terminated as provided herein.
  4. **Dominion's Responsibilities.** Dominion shall:
    - 4.1. Deliver the System and services as described in Exhibit A - Pricing and Payment Summary and Deliverables Description.
    - 4.2. Provide the Customer with a Dominion Software use License as described in Exhibit B - Software License Terms.
    - 4.3. Assign a Dominion project manager ("Dominion Project Manager") to oversee the general operations of the project. The Dominion Project Manager will be the primary contact for all project needs. The Dominion Project Manager will be responsible for all deliverables and services including, resource planning and coordination, product delivery, issue resolution and for all administrative matters such as invoices and payments.

- 4.4. Assist in the Acceptance testing process as required by Section 8 herein.
- 4.5. Provide Customer with one (1) reproducible electronic copy of the documentation.
- 4.6. Provide invoices to Customer pursuant to the payment schedule in Exhibit A and the payment terms described in Section 5.1 herein.

**5. Customer's Responsibilities.** Customer shall:

- 5.1. Pay invoices in a timely manner and no later than thirty (30) calendar days from receipt of a Dominion invoice.
  - 5.1.1. Dominion shall issue invoices to Customer pursuant to the invoice schedule listed in Exhibit A.
  - 5.1.2. Payments specified in this Section 5 are exclusive of all excise, sale, use and other taxes imposed by any governmental authority, all of which shall be reimbursed by the Customer. If the Customer is exempt from taxes, Customer shall supply Dominion a tax exemption certificate or other similar form demonstrating its exempt status.
- 5.2. Assign a Customer project manager ("Customer Project Manager"), who shall be responsible for review, analysis and acceptance of the System and the coordination of Customer personnel, equipment, vehicles and facilities. The Customer Project Manager shall be empowered to make decisions on behalf of the Customer with respect to the work being performed under this Agreement. The Customer Project Manager shall also have direct access to the Customer's top management at all times for purposes of problem resolution.
- 5.3. Conduct Acceptance testing process as required by Section 8.
- 5.4. Customer shall provide reasonable access and entry into all Customer property required by Dominion to perform the services described in this Agreement. All such access and entry shall be provided at Customer's expense.
- 5.5. When applicable, for election setup and database creation services as described in Exhibit A, the Customer shall review and approve or identify issues to all Dominion deliverables related to such service within two (2) business days of receipt by the Customer. In the event the Customer discovers an issue, it shall provide written notice to Dominion immediately following the discovery of any issue and Dominion shall rectify the issue at no additional cost to the Customer. In the event the Customer approves the deliverable and subsequent to such approval, request that a change be made to the deliverable, then Dominion may provide the change at an additional cost based upon Dominion's then current published service rates.

## 6. Title and Risk of Loss.

- 6.1. Title to the System. Title to the System, or any portion thereof, excluding Dominion and Third Party Software, will pass to Customer upon delivery.
- 6.2. Software. Dominion Software and Third Party Software is licensed, not sold. The original and any copies of the Dominion Software, or other software provided pursuant to this agreement, in whole or in part, including any subsequent improvements or updates, shall remain the property of Dominion, or any third party that owns such software.
- 6.3. Risk of Loss. Dominion shall bear the responsibility for all risk of physical loss or damage to each portion of the System until such portion is delivered to the Customer. Customer shall provide Dominion with a single location for shipment and Dominion shall not be responsible for shipping to more than one location. To retain the benefit of this clause, Customer shall notify Dominion of any loss or damage within ten (10) business days of the receipt of any or all portions of the System, or such shorter period as may be required to comply with the claims requirements of the shipper, and shall cooperate in the processing of any claims made by Dominion.

## 7. Software License and Use.

- 7.1. License. Upon mutual execution of this Agreement, Dominion grants to the Customer, and the Customer accepts a non-exclusive, non-transferable, license ("License") to use the Dominion Software subject to the terms and conditions of this Agreement and the Software License Terms attached hereto as Exhibit B.
- 7.2. Third Party Software. The System includes Third Party Software, the use of which is subject to the terms and conditions imposed by the owners of such Third Party Software. Customer consents to the terms and conditions of the third party license agreements by Customer's first use of the System.

## 8. Acceptance.

- 8.1. Dominion Software or Dominion Hardware Testing. After delivery of Dominion Software or Dominion Hardware, the Customer will conduct Acceptance testing of such units, in accordance with the Acceptance criteria developed and updated, from time to time, by Dominion. Such Acceptance testing shall occur at a time mutually agreed upon by the Parties, but no later than thirty (30) business days after installation.
- 8.2. System Acceptance Testing. To the extent not tested as part of the testing pursuant to Subsections 8.1, upon completing the installation of the System, the Customer will conduct system acceptance testing, according to the Acceptance test procedures developed and updated, from time to time, by Dominion. Such Acceptance testing

shall occur at a time mutually agreed upon by the Parties, but no later than ten (10) business days after installation of the System.

- 8.3. Acceptance/Rejection. After testing, if the Dominion Software, Dominion Hardware, or the System does not conform to user documentation or Dominion provided Acceptance criteria, Customer will notify Dominion in writing within five (5) business days. Dominion will, at its own expense, repair or replace the rejected Dominion Software, Dominion Hardware, or System within thirty (30) days after receipt of Customer's notice of deficiency. The foregoing procedure will be repeated until Customer finally accepts or rejects the Dominion Software, Dominion Hardware, or System in writing in its sole discretion.
- 8.4. System Conformance. Customer will not refuse to grant Acceptance of the System, in whole or in part, solely for the reason that it fails to conform with the specifications, requirements and functions set out in the Agreement in a manner that does not affect the performance of the System, in whole or in part, and Dominion shall provide a plan of action to cure such non-conformity with reasonable dispatch.

## 9. Warranties.

- 9.1. Dominion Software Warranty. The Dominion Software warranty is subject to the terms and conditions of Exhibit B - the Software License Terms.
- 9.2. Third Party Products. The warranties in this Sections 9 do not apply to any third party products. However, to the extent permitted by the manufacturers of third party products, Dominion shall pass through to Customer all warranties such manufacturers make to Dominion regarding the operation of third party products.
- 9.3. Dominion Hardware Warranty Terms. Dominion warrants that when used with the hardware and software configuration purchased through or approved by Dominion, each component of Dominion Hardware will be free of defects that would prevent the Dominion Hardware from operating in conformity in all material respects with its specifications as documented by Dominion. The Dominion Hardware Warranty shall remain in effect during the Term of the Agreement.
- 9.4. Dominion Hardware Warranty Services. If any Dominion Hardware component fails to operate in conformity with its specifications during the warranty period, Dominion shall provide a replacement for the Dominion Hardware component or, at Dominion's sole option, shall repair the Dominion Hardware component, so long as the Dominion Hardware is operated with its designated Dominion Software and with third party products approved by Dominion for use with the Dominion Hardware. The following conditions apply to the Dominion Hardware warranty:
- 9.4.1. Dominion shall perform one (1) on-site preventative maintenance inspection ("PM") per year on Dominion Hardware during the Agreement Term at a time mutually agreed to by the Parties. This on-site PM is

expected to be scheduled at least ninety (90) days prior to requested test date. Dominion shall perform the annual PM and will replace any and all parts that fail due to normal use during the warranty period. In the event of a warranty claim outside of the scheduled PM, additional on-site service will be available at Dominion's then current time and material rates. There are no additional charges for parts covered by this warranty.

9.4.2. The following services are not covered by this Agreement, but may be available at Dominion's current time and material rates:

9.4.2.1. Replacement of consumable items including but not limited to batteries, paper rolls, seals, smart cards, removable memory devices, scanner rollers, or any other consumable;

9.4.2.2. Repair or replacement of Dominion Hardware damaged by of accident, disaster, theft, vandalism, neglect, abuse, or any improper usage;

9.4.2.3. Repair or replacement of Dominion Hardware modified by any person other than those authorized in writing by Dominion;

9.4.2.4. Repair or replacement of Dominion Hardware from which the serial numbers have been removed, defaced or changed.

9.5. No Other Warranties. DOMINION DISCLAIMS ALL OTHER WARRANTIES, AND REPRESENTATIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

**10. Force Majeure.** Should any circumstances beyond the control of Dominion or Customer occur that delay or render impossible the performance of any obligation due under this Agreement, such obligation will be postponed for the period of any delay resulting from any such circumstances, plus a reasonable period to accommodate adjustment to such extension, or cancelled if performance has been rendered impossible thereby. Such events may include, without limitation, accidents; war, acts of terrorism; natural disasters; labor disputes; acts, laws, rules or regulations of any government or government agency; or other events beyond the control of both Dominion and Customer. Neither Party shall be liable under this Agreement for any loss or damage to the other Party due to such delay or performance failures. Notwithstanding the foregoing, both Parties shall use their commercially reasonable efforts to minimize the adverse consequences of any such circumstances. This Section shall not operate to excuse any Party from paying amounts that are owed pursuant to this Agreement.

## **11. Indemnification.**

11.1 To the fullest extent permitted by law, Dominion shall hold harmless, defend and indemnify the Customer (the County of Tulare), its Board of Supervisors, employees and agents from and against any and all claims, losses, damages, liabilities and

expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the negligence or willful misconduct of Dominion (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The Customer may participate in the defense of any such claim without relieving Dominion of any obligation hereunder. The obligations of this indemnity shall be for the full amount of all damage to Customer, including defense costs, and shall not be limited by any insurance limits.

- 11.2 Dominion, at its sole expense, will indemnify and defend the Customer, its officers, agents and employees from and against any loss, cost, expense or liability (including but not limited to attorney's fees and awarded damages) arising out of a claim, suit or action that the System infringes, violates, or misappropriates a Third Party's patent, copyright, trademark, trade secret or other intellectual property or proprietary rights.

**12. Limitation of Liability.** EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS CONTAINED IN THIS AGREEMENT, DOMINION'S TOTAL AGGREGATE LIABILITY FOR ANY LOSS, DAMAGE, COSTS OR EXPENSES UNDER OR IN CONNECTION WITH THIS AGREEMENT, HOWSOEVER ARISING, INCLUDING WITHOUT LIMITATION, LOSS, DAMAGE, COSTS OR EXPENSES CAUSED BY BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, BREACH OF STATUTORY OR ANY OTHER DUTY SHALL IN NO CIRCUMSTANCES EXCEED THE TOTAL DOLLAR AMOUNT OF THE AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF DATA, LOSS OF USE OR ANY OTHER INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE WHATSOEVER, HOWSOEVER ARISING, INCURRED BY THE OTHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT, NEGLIGENCE OR OTHER TORT, EVEN IF THE PARTIES OR THEIR REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**13. Confidential Information.**

- 13.1. Each Party shall treat the other Party's Confidential Information as confidential within their respective organizations and each Party shall be given the ability to defend its Confidential Information to the maximum extent allowable under the law prior to disclosure by the other Party of Confidential Information.
- 13.2. Subject to the requirements of the Customer's public record laws ("PRL"), neither Party shall disclose the other Party's Confidential Information to any person outside their respective organizations unless disclosure is made in response to, or because of, an obligation to any federal, state, or local governmental agency or court with appropriate jurisdiction, or to any person properly seeking discovery before any such agency or court.

13.3. Any specific information that Dominion claims to be confidential must be clearly marked or identified as such by Dominion. To the extent consistent with PRL, Customer shall maintain the confidentiality of all such information marked by Dominion as confidential. If a request is made to view such Confidential Information, Customer will notify Dominion of such request and the date the information will be released to the requestor unless Dominion obtains a court order enjoining such disclosure. If Dominion fails to obtain such court order enjoining such disclosure, the Customer will release the requested information on the date specified. Such release shall be deemed to have been made with Dominion's consent and shall not be deemed to be a violation of law or this Agreement.

**14. Assignment.** Neither Party may assign its rights, obligations, or interests in this Agreement without the written consent of the other Party, providing however that Dominion may assign the proceeds of this Agreement to a financial institution without prior consent of the Customer but with written notice to Customer.

**15. Termination.**

15.1 For Default. In the event either Party violates any provisions of this Agreement, the non-violating Party may serve written notice upon the violating Party identifying the violation and a providing a reasonable cure period. Except as otherwise noted herein, such cure period shall be at least thirty (30) days. In the event the violating Party has not remedied the infraction at the end of the cure period, the non-violating Party may serve written notice upon the violating Party of termination, and seek legal remedies for breach of contract as allowed hereunder. If the breach identified in the notice cannot be completely cured within the specified time period, no default shall occur if the Party receiving the notice begins curative action within the specified time period and thereafter proceeds with reasonable diligence and in good faith to cure the breach as soon as practicable.

15.2 For Non-Appropriation of Funds. The Customer shall not be obligated for payments hereunder for any future fiscal year unless or until the Customer appropriates funds for this Agreement in Customer's budget for that fiscal year. In the event that funds are not appropriated, then this Agreement may be terminated by the Customer at the end of the last fiscal year for which funds were appropriated. Termination of this Agreement by the Customer under this Section 15.2 shall not constitute a breach of this Agreement by the Customer. Customer shall notify Dominion in writing of such non-appropriation at the earliest possible date which, in any event, shall be prior to Dominion performing services during any fiscal year for which an appropriation has not been made. In the event Customer notifies Dominion that sufficient funds have not been appropriated, or if in fact sufficient funds have not been appropriated, to compensate Dominion in accordance with this Agreement, Dominion may suspend Dominion's performance and terminate all Dominion licenses under this Agreement. Suspension of performance and termination of all Dominion licenses by Dominion in accordance with this section 15.2 shall not constitute a breach of this Agreement by Dominion.



**16. Legality and Severability.** This Agreement and the Parties' actions under this Agreement shall comply with all applicable federal, state and local laws, ordinances, rules, regulations, court orders, and applicable governmental agency orders. If any term or provision of this Agreement is held to be illegal or unenforceable, the remainder of this Agreement shall not be affected thereby and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. The Parties agree that any court reviewing this Agreement shall reform any illegal or unenforceable provision to carry out the express intent of the parties as set forth herein to the fullest extent permitted by law.

**17. Survival.** The provisions of Sections 2, 9, 10, 11, 12, 13, 16, 18, and 19 shall survive the expiration or termination of this Agreement.

**18. Choice of Law.** Interpretation of this Agreement shall be governed by the laws of the Customer's State, and the courts of competent jurisdiction located in the Customer's State will have jurisdiction to hear and determine questions relating to this Agreement.

**19. Waiver.** Any failure of a Party to assert any right under this Agreement shall not constitute a waiver or a termination of that right or any provisions of this Agreement.

**20. Independent Contractor.** Dominion and its agents and employees are independent contractors performing professional services for the Customer and are not employees of the Customer. Dominion and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of Customer vehicles, or any other benefits afforded to employees of the Customer as a result of this Agreement. Dominion acknowledges that all sums received hereunder are personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

**21. Notices.** All notices required or permitted to be given hereunder shall be given in writing and shall be deemed to have been given when personally delivered or by nationally recognized overnight carrier or mailed, certified or registered mail, return receipt requested, addressed to the intended recipient as follows:

If to Dominion:

Dominion Voting Systems, Inc.  
Attn: Contracts Administrator  
1201 18<sup>th</sup> St., Ste. 210  
Denver, CO 80202

If to the Customer:

Tulare County  
Attn: Michelle Baldwin, ROV  
5951 S. Mooney Blvd.  
Visalia, CA 93277  
Phone No.: 559-624-7300  
Fax No.: 559-737-4498

Tulare County Administrative Office  
Attn: Denise England  
2800 W. Burrel Ave.  
Visalia, CA 93291  
Phone No.: 559-636-5005  
Fax No.: 559-733-6318

**22. Entire Agreement.** This Agreement and its Exhibits incorporated herein by reference constitute the entire agreement, understanding and representations between Dominion and the Customer, and supersede and replace all prior agreements, written or oral. No modifications or representations to the Agreement shall be valid unless made in writing and signed by duly authorized representatives of both the Customer and Dominion and incorporated as an Addendum hereto.

**23. Third-Party Beneficiary.** No person shall be a third-party beneficiary pursuant to this Agreement. No obligation of Dominion or Customer may be enforced against Dominion or Customer, as applicable, by any person not a party to this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

Please replace with the following information:

**THE PARTIES**, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

**DOMINION VOTING SYSTEMS, INC.**

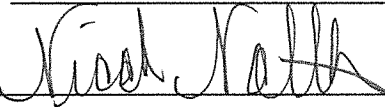
Date: 4/22/19

By 

Print Name John Poulos

Title President & CEO

Date: 4/22/19

By 

Print Name Nicole Nollette

Title Executive Vice President - Operations

[Pursuant to Corporations Code section 313, County policy requires that contracts with a Corporation be signed by both (1) the chairman of the Board of Directors, the president or any vice-president (or another officer having general, operational responsibilities), and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer (or another officer having recordkeeping or financial responsibilities), unless the contract is accompanied by a certified copy of a resolution of the corporation's Board of Directors authorizing the execution of the contract. Similarly, pursuant to California Corporations Code section 17703.01, County policy requires that contracts with a Limited Liability Company be signed by at least two managers, unless the contract is accompanied by a certified copy of the articles of organization stating that the LLC is managed by only one manager.]

**COUNTY OF TULARE**

Date: \_\_\_\_\_

By \_\_\_\_\_

Chairman, Board of Supervisors

ATTEST: JASON T. BRITT  
County Administrative Officer/Clerk of the Board  
of Supervisors of the County of Tulare

By \_\_\_\_\_  
Deputy Clerk

Approved as to Form  
County Counsel

By \_\_\_\_\_  
Deputy  
Matter # \_\_\_\_\_

**EXHIBIT A**

**VOTING SYSTEM AGREEMENT  
BY AND BETWEEN DOMINION VOTING SYSTEMS  
AND TULARE COUNTY, CA**

**PRICING SUMMARY AND DELIVERABLES DESCRIPTION**

**1. Pricing and Deliverable Summary - All pricing in U.S. Dollars.**

<b>Description</b>	<b>Qty</b>	<b>Unit Price</b>	<b>Extension</b>
<b>Central Scanning Solution</b>			
<b>ImageCast Central Kit:</b> HiPro InterSacr True High Speed Document scanner includes: ImageCast Central Software, Dell OptiPlex All-in-One, iButton programmer and key, cables	1	\$183,000.00	\$183,000.00
<b>ImageCast Central:</b> Canon DR-G1130 high speed document scanner includes: ImageCast Central Software, Dell All-in-One, iButton programmer and key, cables	4	\$25,000.00	\$100,000.00
<b>Sub-Total:</b>			<b>\$283,000.00</b>
<b>In-Person Voting Solution</b>			
<b>ImageCast Evolution (ICE):</b> Internal Battery, Printer w/Paper roll, 2x Memory Cards and iButtons	65	\$7,200.00	\$468,000.00
<b>ImageCast Evolution Plastic Ballot Box</b>	65	\$1,000.00	\$65,000.00
<b>ATI Accessible Voting Kit for ICE with cable</b>	65	\$240.00	\$15,600.00
<b>ICE Tech Key (Yellow)</b>	20	\$25.00	\$500.00
<b>ICE Memory Cards 8GB</b>	130	\$40.00	\$5,200.00
<b>ImageCast X BMD (21 inch):</b> ICX Firmware, Tablet, 5 voter activation cards, printer, cables, power cord	67	\$3,175.00	\$212,725.00
<b>ICX Transport Bag Set</b>	67	\$125.00	\$8,375.00
<b>ImageCast X Voting Booth</b>	67	\$295.00	\$19,765.00
<b>ATI Accessible Voting Kit for ICX USB</b>	67	\$375.00	\$25,125.00
<b>ICX Pollworker Smartcard</b>	160	\$8.10	\$1,296.00
<b>ICX Technician Smartcard</b>	20	\$8.10	\$162.00
<b>8GB USB Flash Drive</b>	40	\$17.00	\$680.00
<b>UPS SMT 1500:</b> 980 watts, input 120 output 120 volts, interface DD-9RS-232	40	\$555.00	\$22,200.00
<b>Mobile Ballot Printing (MBP) Kit Oki Data C931E:</b> MBP printer, dell laptop, cables	2	\$11,150.00	\$22,300.00
<b>Sub-Total:</b>			<b>\$866,928.00</b>

<b>Election Management Hardware</b>			
<b>Democracy Suite EMS Standard Server Configuration - Up to 22 clients</b>	2	\$17,000.00	\$34,000.00
<b>EMS Client Workstation Configuration Kit</b>	6	\$1,700.00	\$10,200.00
<b>Adjudication Workstation Kit</b>	6	\$1,700.00	\$10,200.00
<b>Reformatting Station Kit</b>	1	\$1,200.00	\$1,200.00
<b>EMS Report Printer</b>	2	\$125.00	\$250.00
<b>Sub-Total:</b>			<b>\$55,850.00</b>
<b>Software Licenses</b>			
<b>Democracy Suite Light (EMS) and Automated Test Decks – Initial License Fee</b>	1	\$42,000.00	\$42,000.00
<b>ICC Adjudication Application – Initial License Fee</b>	1	\$35,000.00	\$35,000.00
<b>Mobile Ballot Printing System Application – Initial License Fee</b>	1	\$6,500.00	\$6,500.00
<b>ImageCast Remote UOCAVA / RAVBM – Initial License Fee</b>	1	\$15,000.00	\$15,000.00
<b>Sub-Total:</b>			<b>\$98,500.00</b>
<b>Implementation Services</b>		<b>Days</b>	
<b>Project Management</b>	25	\$2,000.00	\$50,000.00
<b>System Acceptance Testing Training</b>	2	\$2,000.00	\$4,000.00
<b>Democracy Suite Full System Training</b>	5	\$2,000.00	\$10,000.00
<b>ICE Operator Training</b>	1	\$2,000.00	\$2,000.00
<b>ICX Operator Training</b>	1	\$2,000.00	\$2,000.00
<b>ICC Operator Training</b>	1	\$2,000.00	\$2,000.00
<b>ICC Adjudication Training</b>	1	\$2,000.00	\$2,000.00
<b>Train the Trainer: Pollworker</b>	2	\$2,000.00	\$4,000.00
<b>Sub-Total:</b>			<b>\$76,000.00</b>
<b>Shipping</b>		\$ -	TBD
<b>Purchase: Year 1 Sub-Total:</b>			<b>\$1,380,278.00</b>
<i>General Discount</i>			<i>(\$331,266.72)</i>
<b>Purchase: Year 1 Final Total:</b>			<b>\$1,049,011.28</b>
<i>Estimated California Sales Tax</i>			<i>\$138,189.27</i>

2. **Payment Schedule** - Dominion shall provide invoices to the Customer as described below. The Customer shall pay invoices in a timely manner and no later than thirty (30) calendar days from receipt of a Dominion invoice. Sales taxes are estimated and paid by Customer.

2.1 **Year 1 Payment Schedule**

ID	Payment Invoice Date	Payment Amount
1	Agreement Signing	\$524,505.64
2	Completion of System Acceptance	\$419,604.51
3	Certification of the March 2020 Election	\$104,901.13
4	Shipping	TBD

- 2.2 **Legacy System Licenses and Warranties Credit** – Dominion shall apply a credit on a pro-rated basis starting on the Agreement Effective Date to the Customer for 2019 or 2020 payments made for the legacy system licenses and warranties.

- 2.3 **Support Services Payment Schedule** - Dominion shall provide invoices to the Customer upon completion of the services as described below. The Customer shall pay invoices in a timely manner and no later than thirty (30) calendar days from receipt of a Dominion invoice.

Payment Invoice Date	Payment Amount
Election Set Up (Ballot Layout, Test Deck,) – 8 Elections	\$136,000.00
3 Day Election On-Site Support - – 2 Elections	\$9,000.00

2.4 **Annual Software License Fees (Beginning on April 1, 2020)**

2020 – Annual Software Licenses Fees		Unit Price	Extension
Democracy Suite (EMS)	1	\$18,000.00	\$18,000.00
ICC Adjudication Application	1	\$7,000.00	\$7,000.00
Automated Test Decks Application	1	\$2,400.00	\$2,400.00
Mobile Ballot Printing Application	1	\$1,300.00	\$1,300.00
ImageCast Remote UOCAVA / RAVBM Application	1	\$6,000.00	\$6,000.00
ImageCast Central – Firmware – G1130	4	\$2,575.00	\$10,300.00
ImageCast Central – Firmware – HSS	1	\$10,300.00	\$10,300.00
ImageCast Evolution - Firmware	65	\$228.00	\$14,820.00
ImageCast X BMD - Firmware	67	\$150.00	\$10,050.00
<b>Sub-Total:</b>			<b>\$80,170.00</b>
<b>Estimated Taxes 8.5%</b>			<b>\$6,814.45</b>
<b>Total</b>			<b>\$86,984.45</b>

<b>2021 – Annual Software Licenses Fees</b>		<b>Unit Price</b>	<b>Extension</b>
Democracy Suite (EMS)	1	\$18,900.00	\$18,900.00
ICC Adjudication Application	1	\$7,350.00	\$7,350.00
Automated Test Decks Application	1	\$2,520.00	\$2,520.00
Mobile Ballot Printing Application	1	\$1,365.00	\$1,365.00
ImageCast Remote UOCAVA / RAVBM Application	1	\$6,300.00	\$6,300.00
ImageCast Central - Firmware	4	\$2,703.75	\$10,815.00
ImageCast Central – Firmware – HSS	1	\$10,815.00	\$10,815.00
ImageCast Evolution - Firmware	65	\$239.40	\$15,561.00
ImageCast X BMD - Firmware	67	\$157.50	\$10,552.50
	<b>Sub-Total:</b>		<b>\$84,178.50</b>
	<b>Estimated Taxes 8.5%</b>		<b>\$7,155.17</b>
	<b>Total</b>		<b>\$84,178.50</b>

<b>2022 – Annual Software Licenses Fees</b>		<b>Unit Price</b>	<b>Extension</b>
Democracy Suite (EMS)	1	\$19,845.00	\$19,845.00
ICC Adjudication Application	1	\$7,717.50	\$7,717.50
Automated Test Decks Application	1	\$2,646.00	\$2,646.00
Mobile Ballot Printing Application	1	\$1,433.25	\$1,433.25
ImageCast Remote UOCAVA / RAVBM Application	1	\$6,615.00	\$6,615.00
ImageCast Central - Firmware	4	\$2,838.94	\$11,355.75
ImageCast Central – Firmware – HSS	1	\$11,355.75	\$11,355.75
ImageCast Evolution - Firmware	65	\$251.37	\$16,339.05
ImageCast X BMD - Firmware	67	\$165.38	\$11,080.13
	<b>Sub-Total:</b>		<b>\$88,387.43</b>
	<b>Estimated Taxes 8.5%</b>		<b>\$7,512.93</b>
	<b>Total</b>		<b>\$88,387.43</b>

<b>2023 – Annual Software Licenses Fees</b>		<b>Unit Price</b>	<b>Extension</b>
Democracy Suite (EMS)	1	\$20,837.25	\$20,837.25
ICC Adjudication Application	1	\$8,103.38	\$8,103.38
Automated Test Decks Application	1	\$2,778.30	\$2,778.30
Mobile Ballot Printing Application	1	\$1,504.91	\$1,504.91
ImageCast Remote UOCAVA / RAVBM Application	1	\$6,945.75	\$6,945.75
ImageCast Central - Firmware	4	\$2,980.88	\$11,923.54
ImageCast Central – Firmware – HSS	1	\$11,923.54	\$11,923.54
ImageCast Evolution - Firmware	65	\$263.94	\$17,156.00
ImageCast X BMD - Firmware	67	\$173.64	\$11,634.13
	<b>Sub-Total:</b>		<b>\$92,806.80</b>
	<b>Estimated Taxes 8.5%</b>		<b>\$7,888.58</b>
	<b>Total</b>		<b>\$92,806.80</b>

<b>2024 – Annual Software Licenses Fees</b>		<b>Unit Price</b>	<b>Extension</b>
Democracy Suite (EMS)	1	\$21,879.11	\$21,879.11
ICC Adjudication Application	1	\$8,508.54	\$8,508.54
Automated Test Decks Application	1	\$2,917.22	\$2,917.22
Mobile Ballot Printing Application	1	\$1,580.16	\$1,580.16
ImageCast Remote UOCAVA / RAVBM Application	1	\$7,293.04	\$7,293.04
ImageCast Central - Firmware	4	\$3,129.93	\$12,519.71
ImageCast Central – Firmware – HSS	1	\$12,519.71	\$12,519.71
ImageCast Evolution - Firmware	65	\$277.14	\$18,013.80
ImageCast X BMD - Firmware	67	\$182.33	\$12,215.84
		<b>Sub-Total:</b>	<b>\$97,447.14</b>
		<b>Estimated Taxes 8.5%</b>	<b>\$8,283.01</b>
		<b>Total</b>	<b>\$97,447.14</b>

<b>2025 – Annual Software Licenses Fees</b>		<b>Unit Price</b>	<b>Extension</b>
Democracy Suite (EMS)	1	\$22,973.07	\$22,973.07
ICC Adjudication Application	1	\$8,933.97	\$8,933.97
Automated Test Decks Application	1	\$3,063.08	\$3,063.08
Mobile Ballot Printing Application	1	\$1,659.17	\$1,659.17
ImageCast Remote UOCAVA / RAVBM Application	1	\$7,657.69	\$7,657.69
ImageCast Central - Firmware	4	\$3,286.43	\$13,145.70
ImageCast Central – Firmware – HSS	1	\$13,145.70	\$13,145.70
ImageCast Evolution - Firmware	65	\$290.99	\$18,914.49
ImageCast X BMD - Firmware	67	\$191.44	\$12,826.63
		<b>Sub-Total:</b>	<b>\$102,319.49</b>
		<b>Estimated Taxes 8.5%</b>	<b>\$8,697.16</b>
		<b>Total</b>	<b>\$102,319.49</b>

**2.5 Optional Annual Hardware Warranty Fees (Beginning on April 1, 2020)**

<b>2020 – Annual Warranty Fees</b>			
ImageCast Central - G1130	4	\$1,500.00	\$6,000.00
ImageCast Central – HSS	1	\$8,500.00	\$8,500.00
ImageCast Evolution	65	\$235.00	\$15,275.00
ImageCast X - BMD (21")	67	\$155.00	\$10,385.00
		<b>Total</b>	<b>\$40,160.00</b>

<b>2021 – Annual Warranty Fees</b>			
ImageCast Central - G1130	4	\$1,575.00	\$6,300.00
ImageCast Central – HSS	1	\$8,925.00	\$8,925.00
ImageCast Evolution	65	\$246.75	\$16,038.75
ImageCast X - BMD (21")	67	\$162.75	\$10,904.25
		<b>Total</b>	<b>\$42,168.00</b>



<b>2022 – Annual Warranty Fees</b>			
ImageCast Central - G1130	4	\$1,653.75	\$6,615.00
ImageCast Central – HSS	1	\$9,371.25	\$9,371.25
ImageCast Evolution	65	\$259.09	\$16,840.69
ImageCast X - BMD (21")	67	\$170.89	\$11,449.46
<b>Total</b>			<b>\$44,276.40</b>

<b>2023 – Annual Warranty Fees</b>			
ImageCast Central - G1130	4	\$1,736.44	\$6,945.75
ImageCast Central – HSS	1	\$9,839.81	\$9,839.81
ImageCast Evolution	65	\$272.04	\$17,682.72
ImageCast X - BMD (21")	67	\$179.43	\$12,021.94
<b>Total</b>			<b>\$36,068.66</b>

<b>2024 – Annual Warranty Fees</b>			
ImageCast Central - G1130	4	\$1,823.26	\$7,293.04
ImageCast Central – HSS	1	\$10,331.80	\$10,331.80
ImageCast Evolution	65	\$285.64	\$18,566.86
ImageCast X - BMD (21")	67	\$188.40	\$12,623.03
<b>Total</b>			<b>\$48,814.73</b>

<b>2025 – Annual Warranty Fees</b>			
ImageCast Central - G1130	4	\$1,914.42	\$7,657.69
ImageCast Central – HSS	1	\$10,848.39	\$10,848.39
ImageCast Evolution	65	\$299.93	\$19,495.20
ImageCast X - BMD (21")	67	\$197.82	\$13,254.18
<b>Total</b>			<b>\$51,255.47</b>

### 3. Detailed Deliverables Description

3.1 **ImageCast® Central Scanner (ICC).** Each ImageCast® Central Scanner includes the following components:

- 3.1.1 Canon DR-G1130 high speed document scanner
- 3.1.2 ImageCast® Central Software
- 3.1.3 OptiPlex 7440 All-in-One Series with pre-loaded software
- 3.1.4 iButton Security Key
- 3.1.5 iButton Programmer and iButton Key Switch & Cat5 RJ 45 Cables used with Democracy Suite to transfer security and election information to the iButtons for use with the ICC

3.2 **ImageCast® Central Scanner (ICC) with interScan HiPRO Series high speed scanner.** Each ImageCast® Central Scanner includes the following components:

- 3.2.1 interScan HiPRO Series high speed scanner
  - 3.2.2 ImageCast® Central Software
  - 3.2.3 OptiPlex 3050 All-in-One Series with pre-loaded software
  - 3.2.4 iButton Security Key
  - 3.2.5 iButton Programmer and iButton Key Switch & Cat5 RJ 45 Cables used with Democracy Suite to transfer security and election information to the iButtons for use with the ICC
- 3.3 ***ImageCast® Evolution (ICE) Scanner and Tabulator*** is a precinct-level all in one, digital scanner, ballot marker, and accessible voting tabulator. Each ImageCast® (ICE) provided to the Customer shall consist of the following items:
- 3.3.1 Two (2) optical imaging heads for creating a duplex scanned image of each side of the ballot. Ballots can be fed in all four (4) orientations.
  - 3.3.2 Two (2) Compact Flash 8GB memory cards.
  - 3.3.3 An integrated 19" diagonal full color LCD with built-in touch screen.
  - 3.3.4 An internal thermal printer and one (1) paper roll for generating reports.
  - 3.3.5 An integrated inkjet printer for producing marked paper ballot during the accessible voter sessions.
  - 3.3.6 Two (2) administrative security key (iButton) used with an integrated receptacle (physically attached to the top of the unit and electrically connected to the motherboard) used for a variety of verification and security tasks such control, data confidentiality and integrity functions.
  - 3.3.7 A motorized paper feed mechanism for detecting and moving the ballot within the scanner. Ballots used with the ImageCast® must be 8.5" wide by a variable length (11", 14", 17", and 22"). The paper feed mechanism is physically capable of moving the ballot forward into the machine, across image sensors, enabling complete image capture of both sides of the ballot.
  - 3.3.8 An internal battery which is rated to provide a minimum of two (2) hours of normal use in the absence of AC power.
  - 3.3.9 The ImageCast Evolution is equipped with an integrated voting feature for voters needing additional assistance. It uses a single ballot path which does not require the voter to have to go to an additional unit to cast the vote. The ImageCast Evolution features several accessible voting interfaces that allow voters with various disabilities to effectively vote, review and cast a paper ballot in a private and independent manner. The ImageCast Evolution offers the following user interfaces - touch screen interface for visual ballot review and ballot casting, accessible ballot marking interface (both audio and visual), assistive input devices for accessible ballot navigation and voting, including an ATI (Audio-Tactile Interface).
- 3.4 ***ICE Molded Plastic Ballot Box.*** A textured molded plastic ballot box per ImageCast Evolution unit. Ballot Box is made of a three (3) compartments, custom designed for use with the ImageCast Evolution.

3.5 **ImageCast® X (“ICX”).**

3.5.1 **Application:** ImageCast X BMD is a touchscreen in-person voting device and ballot marking device. Voting sessions are initiated on the tablet by either a smart card or the entry of a numeric code based on activation. The ballot is loaded directly onto the standalone device. All voting activity is performed at the tablet, including accessible voting. Accessible voting interfaces connect to the tablet via an Audio Tactile Interface or ATI. For all modes of voting, after the voter reviews the ballot selections, a paper ballot is created for the voter from a printer in the voting booth. The printed ballot contains a written summary of the voter’s choices, as well as a 2D barcode which is read by Dominion’s ImageCast Precinct or Central tabulator. No votes are stored on the ImageCast X-BMD unit.

3.5.2 **Components:** ImageCast X BMD is composed of a 21” Avalue touchscreen, Android OS 4.4.4, DC 19V input, HP LaserJet Pro M402dne laser printer, 6’ cable, 5 smart cards, and 8GB flash drive.

3.6 **ImageCast® Software.** The Parties will enter into software licenses for the ImageCast software, substantially in the form of Exhibit B to this Agreement. The Dominion software includes, without limitation:

3.6.1 **AuditMark®.** For each ballot that is scanned and accepted into the unit, a corresponding ballot image is created and stored for audit purposes. The image consists of two parts described below.

- The top portion of the image contains a scanned image of the ballot.
- The bottom portion consists of a machine-generated type-out showing each mark that the unit interpreted for that particular ballot. This is referred to as an AuditMark®.

3.7 **Democracy Suite Light Software** consists of the following components:

3.7.1 **Election File and iButton Creation** Customer is authorized to create Election Files and iButtons from EED to load on the ICX, ICVA and ICC units.

3.7.2 **Results, Tally and Reporting (RTR) Client Application** is the application used for the tally, reporting and publishing of election results.

3.7.3 **Automated Test Deck (ATD).** ATD is an application used to create test decks for running Pre-Logic and Accuracy Test with marking pattern requirements. The application can be used to access the election database and produce a set of print-ready PDFs and results tables for testing.

3.8 **ImageCast® Adjudication Application** is a client and server application used to review and adjudicate ImageCast® Central Scanner ballot images. The application uses tabulator results files and scanned images to allow election administrators to make adjudications to ballots with auditing and reporting capabilities. The Adjudication Application examines such voter exceptions as overvotes, undervotes, blank contests, blank ballots, write-in selections, and marginal marks. The application works in two basic modes: election project setup and adjudication. The Adjudication Application can be used in a multi-client environment.

- 3.9 **Mobile Ballot Printing** is an application used to search, preview and print ballots via a local printer device. The application makes use of ballot information and PDFs produced by the Election Event Designer application and information provided through the customer voter registration system.
- 3.10 **ImageCast Remote Voting (UOCAVA/RAVBM) System** offers a secure and efficient means for overseas, military voters and voters with disabilities, to receive, mark, print and return their ballots. The ImageCast Remote system ensures the security and transparency of the balloting process while preserving the privacy of voters and voters. The ImageCast Remote system utilizes the same database or election project used for all other ballots. Ballots returned by ImageCast Remote voters can be processed on ImageCast Central, eliminating the need to duplicate ballots or process ballots on a separate system. Prior to first use of the ImageCast Remote, Dominion shall provide a fully inclusive accessible voter guide/pamphlet.
- 3.11 **Implementation Services and Training.** Dominion will provide the following training as described herein.
- 3.11.1 Project Management Support. Dominion will provide project management support to oversee the general operations of the project through the Agreement Term. The project manager shall be responsible for arranging all meetings, visits and consultations between the parties and for all administrative matters such as invoices, payments and amendments. The Parties shall develop and finalize a project implementation plan including a training and delivery schedule. The Parties agree that during the course of the implementation, changes to the project schedule may be required. Any changes to the project schedule must be mutually agreed to by both Parties and such agreement shall not be unreasonably withheld.
- 3.11.2 ImageCast® ICE – This training introduces the ImageCast® ICE system with an emphasis on the operation of the hardware. Students can expect to learn general operations, logic and accuracy testing, Election Day setup and operation, and troubleshooting.
- 3.11.3 ImageCast® X – This training introduces the ImageCast® X system with an emphasis on the operation of the hardware. Students can expect to learn general operations, logic and accuracy testing, Election Day setup and operation, and troubleshooting.
- 3.11.4 ImageCast® ICC – This training introduces the ImageCast® ICC with an emphasis on the operation of the hardware. Students can expect to learn general operations, logic and accuracy testing, ballot scanning operation, troubleshooting and ballot adjudication.
- 3.11.5 EMS Server Installation, Configuration & Testing. Dominion will provide a minimum total of one (1) day of direct onsite support for EMS Server installation, configuration & testing.
- 3.11.6 Democracy Suite® EMS System– This training covers the restoring election project backups, creating ICX, ICC, and ICE files, tally and reporting.

- 3.11.7 System Acceptance Testing Support. Dominion will provide direct onsite training and support during the System Acceptance Testing period
- 3.11.8 Pollworker Train the Trainer – This provides training to the Customer staff on operations of a polling location including the ICX, ICE, ICX Card activation, testing and troubleshooting.
- 3.11.9 On-Site Election Day Support. Dominion will provide three (3) days (inclusive of travel) of direct onsite election support for two (2) elections.
- 3.12 ***Election Ballot Definition Setup.*** Dominion shall provide election setup services and support for the election database creation and ballot review for 8 Elections. Ballot definition services will be provided in English and Spanish only and will include the following: Democracy Suite Election project setup, provide the Mail Ballot/Absentee PDF artwork, verification and proofing for each Election, provide audio setup for audio voting using a synthesizer. Any outside recording charges would be at the Customer’s expense.
- 3.13 ***Disposal of Present Voting Systems.*** Dominion and County agree that Dominion shall dispose of the present voting machines possessed by the Customer. Dominion and Customer agree that Customer shall comply with any licensing requirements for the removal of all software/firmware from the previous system, as may be required from the previous license agreement.
- 3.14 ***Travel and Expenses included.*** All costs of Dominion transportation, lodging and meal expenses are included during the Agreement Term.
- 3.15 ***Support Hours / Response Times.*** The following table represents timeframes by which Dominion will respond to the Customer’s requests for technical assistance.

Phase	Type of Support	Initial Response	Technical Review Completed	Full Resolution of Issue
Outside an election period (after the most recent election is certified until 120 days before the next election).	On-site, telephone, and, video calls.	No later than the next business day.	No later than two business days.	No later than 10 business days.
During definition of the election and the creation of ballots (120 days before Election Day through 60 days before Election Day).	On-site, telephone, and video calls.	No later than four hours.	Within 24 hours.	Within 48 hours.
From mailing of military and overseas ballots, 60 days before Election Day, through the day before Election Day.	On-site, telephone, and video calls.	Within 30 minutes.	Within two hours.	Within four hours.
On Election Day	On-site.	Immediate.	Within 60 minutes.	Within one hour.
The day after Election Day until election is certified.	On-site (if requested), telephone, and video calls.	Within 30 minutes.	Within two hours.	Within four hours.
During a recount	On-site (if requested), telephone, and video calls.	Within six hours.	Within 24 hours.	Within the next business day.

Starting fourteen (14) weeks before each Election Day and continuing seven (7) calendar days before Election Day, either the Dominion Project Manager

(implementation) or Customer Relations Manager (ongoing support) will be available by cell phone, Monday through Friday, during the Customer's regular business hours, to provide election-related support services.

- 3.16 ***Other Services, Consumables or Equipment.*** Any other services, consumables or equipment not specifically identified in this Agreement are available for purchase by the Customer at the then current Dominion list price.

## EXHIBIT B

### SOFTWARE LICENSE TERMS AND CONDITIONS

#### 1. Definitions.

- 1.1. "Agreement" shall mean the agreement between the Parties for the use of the licensed Software.
- 1.2. "Licensee" shall mean the Customer defined in the general terms and conditions of this Agreement.
- 1.3. "Licensor" shall mean Dominion Voting Systems, Inc.
- 1.4. "Party" or "Parties" Licensor and Licensee may hereinafter be referred to individually as a Party and collectively as the Parties.
- 1.5. "Software" means the Democracy Suite® and ImageCast® software licensed by Licensor hereunder, in object code form, including all documentation therefore.
- 1.6. "Specifications" means descriptions and data regarding the features, functions and performance of the Software, as set forth in user manuals or other applicable documentation provided by Licensor.
- 1.7. "Third-Party Products" means any software or hardware obtained from third-party manufacturers or distributors and provided by Licensor hereunder.

#### 2. License Terms.

- 2.1. License to Software. Subject to the terms herein, Licensor grants Licensee a non-exclusive, non-transferrable license to use the Software solely for the Licensee's own internal business purposes and solely in conjunction with the Software and hardware. This License shall only be effective during the Term and cannot be transferred or sublicensed.
- 2.2. Print Copyright License. Subject to the Print Copyright License terms and conditions as defined in Schedule A attached hereto, Licensor grants to Licensee a non-exclusive, non-transferable print copyright license as defined in Schedule A.
- 2.3. Third-Party Products. When applicable, Licensor shall sublicense any software that constitutes or is contained in Third-Party Products, in object code form only, to Licensee for use during the Term.
- 2.4. No Other Licenses. Other than as expressly set forth herein, (a) Licensor grants no licenses, expressly or by implication, and (b) Licensor's entering into the Agreement will not be deemed to license or assign any intellectual property rights of Licensor to Licensee or any third party. Licensee agrees not to use the Software as a service bureau for elections outside the Licensee's jurisdiction and agrees not to reverse engineer or otherwise attempt to derive the source code of the Software. The Licensee shall have no power to transfer or grant sub-licenses for the Software. Any use of all or any portion of the Software not expressly permitted is strictly prohibited.

**3. Payment.** In consideration of the grant of the license, the Licensee shall pay the license fees set forth in Exhibit A of this Agreement.

**4. Upgrades and Certification.** During the Term, Licensor may provide upgrades to Licensee under the following terms and conditions.

4.1. Upgrades. In the event that Licensor, at its sole discretion, certifies a Software upgrade under the applicable laws and regulations of the State of California, Licensor shall make the certified Software upgrade available to the Licensee at no additional cost.

4.2. Certification Requirement. Notwithstanding any other terms of this Agreement, Licensor shall not provide, and shall not be obligated to provide under this Agreement any upgrade, enhancement or other software update that has not been certified under the applicable provisions of the election laws and regulations of the State of California.

**5. Prohibited Acts.** The Licensee shall not, without the prior written permission of Licensor:

5.1. Transfer or copy onto any other storage device or hardware or otherwise copy the Software in whole or in part except for purposes of system backup;

5.2. Reverse engineer, disassemble, decompile, decipher or analyze the Software in whole or in part;

5.3. Alter or modify the Software in any way or prepare any derivative works of the Software or any part of parts of the Software;

5.4. Alter, remove or obstruct any copyright or proprietary notices from the Software, or fail to reproduce the same on any lawful copies of the Software.

5.5 Notwithstanding this section, the parties acknowledge that the source code of the Software is to be placed in escrow pursuant to California state regulations, and that the Licensee may access this source code as permitted under the escrow agreement in the event the Licensor, or its successor in interest, ceases to provide Software.

**6. Return of Software.** Upon termination or expiration of this Agreement, Licensee shall (i) forthwith return to Licensor all Software in its possession or (ii) control, or destroy all such Software from any electronic media, and certify in writing to Licensor that it has been destroyed.

**7. Warranties.** The following warranties will apply to all Software during the Term.

7.1. Software Warranty Terms. Licensor warrants that the Software will function substantially in accordance with the Specification during the Term. The Licensor also warrants that the Software shall comply with the State of California certification requirements and election laws (collectively the "Requirements") in effect as of the date the Software is certified by the State of California. This provision applies to the initially installed Software as well as any subsequent upgrades pursuant to Section 3 herein. However, the Licensor will not be required to make modifications to the Software or System as a result of changes in the Requirements. The foregoing warranty will be void in the event of the Software (i) having been modified by any party other than Licensor or



(ii) having been used by the Licensee for purposes other than those for which the Software was designed by Licensor. If Licensor establishes that the reported material failure is not covered by the foregoing warranty, the Licensee shall be responsible for the costs of Licensor's investigative and remedial work at Licensor's then current rates.

7.2. Corrections. If the Licensee believes that the Software is not functioning substantially in accordance with the Specifications or Requirements, the Licensee shall provide Licensor with written notice of the material failure within thirty (30) days of discovering the material failure, provided that the Licensee can reproduce the material failure to Licensor. The Licensor shall correct the deficiencies, at no additional cost to the Licensee and incorporate such corrections into the next version certified by the State of California.

7.3 Third-Party Products. The warranties herein do not apply to any Third-Party Products. However, to the extent permitted by the manufacturers of Third-Party Products, Licensor shall pass through to Licensee all warranties such manufacturers make to Licensor regarding the operation of such Third-Party Products.

7.4. NO OTHER WARRANTIES. LICENSOR DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

## SCHEDULE A

### PRINT COPYRIGHT LICENSE TERMS AND CONDITIONS

1. **Definitions.** For the purposes of this Agreement, the following are defined terms:
  - 1.1. "Derivative Works" shall mean any work that is based upon or derived from the Licensor's voting systems' ballots, including without limitation, sample ballots and voting booklets.
  - 1.2. "Voting Systems' Ballots" shall mean any ballot created for use with any voting system owned or licensed by the Licensor.
2. **Print Copyright License and Use.**
  - 2.1. Copyright License Grant. Licensor grants to the Licensee a non-exclusive, non-transferable copyright license to print, reproduce, distribute or otherwise copy the Licensor's Voting Systems' Ballots or any Derivative Works (collectively the "Materials") pursuant to the terms and conditions of this Schedule A.
  - 2.2. Copyright License Use. Other than as expressly set forth herein, (a) Licensor grants no other licenses, expressly or by implication, and (b) Licensor's entering into and performing the Agreement will not be deemed to license or assign any intellectual property rights of Licensor to Licensee or any third party, (c) the copyright license granted herein cannot be transferred or sublicensed and the Voting Systems' Ballots or Derivative Works cannot be reproduced by any third party without the prior written consent of the Licensor, including without limitation:
    - (i) any commercial or non-commercial printer
    - (ii) any third party vendor using ballot on demand system.
  - 2.3. Rights and Interests. All right, title and interest in the Material, including without limitation, any copyright, shall remain with the Licensor.
3. **No Copyright Warranties.** LICENSOR DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.