

Managed Hosting Services Agreement
by and between

San Bernardino County

and

NEC Corporation of America

for

Integra-ID MBIS Upgrade

June 10, 2025

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AGREEMENT

This Agreement is entered into this 10th day of June, 2025 (the “Effective Date”) by and between the NEC Corporation of America, a Nevada corporation, having its principal place of business at 3929 West John Carpenter Frwy, Irving, TX 75063 (hereinafter “NEC”) and **San Bernardino County, a political subdivision organized and existing under the constitution and laws of the State of California, through its Sheriff/Coroner/Public Administrator**, having its principal place of business at **655 East Third Street San Bernardino, CA 92415** (hereinafter Customer”) (hereinafter collectively also the “parties” or individually a “party”).

In consideration of the mutual promises, covenants and conditions set forth herein and for good and valuable consideration, NEC and Customer agree as follows:

1 APPLICABLE DOCUMENTS

1.1 Interpretation

The provisions of this Agreement (hereinafter “Agreement”), along with Exhibits A, B, C, D, E, F and G, including all attachments and schedules, if applicable collectively form and throughout and hereinafter are referred to as the “Agreement”. In the event of any conflict, ambiguity or inconsistency in the definition or interpretation of any word, obligation, deliverable, service or otherwise, between this Agreement and the Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Agreement, and then to the Exhibits, according to the following order of precedence:

- Exhibit A - Statement of Work
- Exhibit B - Pricing and Payment Schedule
- Exhibit C - Final Acceptance Form
- Exhibit D - Software License Agreement
- Exhibit E - Microsoft Cloud Agreement
- Exhibit F - Levine Act - Campaign Contribution Disclosure
- Exhibit G - FBI CJIS Security Addendum

1.2 Entire Agreement

This Agreement constitutes the complete and exclusive Agreement between the parties and supersedes all previous agreements, whether written or oral, between the parties relating to the subject matter of this Agreement. In the event of any conflict or inconsistency between this Agreement and the Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to this Agreement, and then to the Exhibits. This Agreement may only be modified in writing, by a signed amendment.

2 DEFINITIONS

The terms and phrases in this Section 2, whether singular or plural, shall have the particular meanings set forth below whenever such terms are used in this Agreement.

2.1 Additional Products

The term “Additional Product(s)” shall mean any item of additional hardware, Software, customizations, interfaces, including additional workstations, and related Documentation, that NEC may provide pursuant to a Change Order following Final Acceptance, upon Customer’s request. Once mutually agreed upon, such Additional Products shall become part of, and be deemed, part of the Solution for the purpose of this Agreement.

2.2 Reserved

2.3 Business Day

The term “Business Day” shall mean any day of eight (8) working hours from 8:00 a.m. to 5:00 p.m. Pacific Time (PT), Monday through Friday, excluding the following NEC observed holidays, New Year’s Day, Martin Luther King Day, President’s Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Veteran’s Day, Thanksgiving Day, Day After Thanksgiving Day, Christmas Eve, Christmas Day.

2.4 Change Notice

The term “Change Notice” shall mean a contract change, or other change in this Agreement, that has been adopted by the parties in accordance with Section 4 (Changes Notices).

2.5 Confidential Information

The term “Confidential Information” shall have the meaning specified in Section 15.1 (Confidentiality).

2.6 Customer Data

The term “Customer Data” shall mean the customer provided data utilized by the Solution.

2.7 Reserved

2.8 Data Migration

The term “Data Migration” shall mean migration of Customer Data as part of System Implementation Services, as further specified in Section 1.4 (Project Deliverables and Services) of Exhibit A – Statement of Work.

2.9 Day

The term “Day” shall mean calendar day and not Business Day.

2.10 Deliverable; deliverable

The terms “Deliverable” and “deliverable” shall mean items provided or to be provided by NEC under this Agreement, including Deliverable(s) in Exhibit A – Statement of Work.

2.11 Dispute Resolution Procedure

The term “Dispute Resolution Procedure” shall mean and refer to the provisions of Section 19 (Applicable Laws and Dispute Resolution Procedure) describing the procedure for resolving the disputes arising under or with respect to this Agreement.

2.12 Documentation

The term “Documentation” shall mean any and all written and electronic materials provided by NEC under this Agreement, including, but not limited to, documentation relating to software and hardware specifications and functions, training course materials, specifications including System requirements, technical manuals, handbooks, flow charts, technical information, reference materials, user manuals, operating manuals, quick reference guides, FAQs, and all other instructions and reference materials relating to the capabilities, operation, installation and use of the Solution and/or applicable components.

2.13 Due Date

The term “Due Date” shall mean the due date for the completion of any Deliverable.

2.14 Reserved

2.15 Final Acceptance Date

The term “Final Acceptance Date” shall mean the date of Final Acceptance.

2.16 Fixed Hourly Rate

The term “Fixed Hourly Rate” shall mean the hourly rate, specified in quotation(s) which shall be provided by NEC to Customer in accordance with Section 5.4 (Optional Work), for Professional Services including Consulting Services and programming modifications, as applicable, that NEC may provide, following Final Acceptance, upon Customer’s request in the form of Optional Work.

2.17 Reserved

2.18 Final Acceptance

The term “Final Acceptance” shall mean Customer’s written acceptance of any deliverables, and Services or other work, including System Acceptance Testing, provided by NEC to Customer, pursuant to the mutually agreed upon Acceptance Test Plan.

2.19 Optional Work

The term “Optional Work” shall mean application modifications, Professional Services and/or Additional Products that may be provided by NEC to Customer, upon Customer’s request in accordance with Section 5.4 (Optional Work).

2.20 Pricing and Payment Schedule

The term “Pricing and Payment Schedule” shall mean prices, rates and other fees for Deliverables identified as Exhibit B – Pricing and Payment Schedule.

2.21 Productive Use

The term “Productive Use” shall mean the actual use of the Solution in the Customer’s operational environment for the performance of Customer’s operations.

2.22 Professional Services

The term “Professional Services” shall mean professional and/or consulting services that NEC may provide upon Customer’s request in accordance with Section 5.4 (Optional Work).

2.23 Project Manager(S)

The term “Project Manager(s)” shall have the meaning specified in Section 3.1.1 (Project Manager(s)).

2.24 Project Schedule

The term “Project Schedule” shall mean the agreed upon timeline for System Implementation and Deliverables specified in Exhibit A – Statement of Work.

2.25 Services

The term “Services” shall mean any services provided by NEC under this Agreement including hosting, management, maintenance and support of the Solution.

2.26 Service Fee(s)

The term “Service Fee(s)” shall mean the Service Fees for the annual maintenance and Azure hosting to be paid by Customer to NEC for Services performed commencing upon Final Acceptance in accordance with the terms of this Agreement, including Exhibit B – Pricing and Payment Schedule.

2.27 Software

The term “Software” shall mean the software provided by NEC as part of the Solution, including operating and database software.

2.28 Solution

The term “Solution” shall mean the system and services contemplated by this Agreement and as set forth in the Statement of Work.

2.29 Statement of Work; SOW

The terms “Statement of Work” and “SOW” shall mean the work to be provided by NEC pursuant to this Agreement identified in terms of Services and Deliverables in Exhibit A – Statement of Work.

2.30 System

The term “System” shall mean the architectural and operational environment for the Solution provided by NEC, including the government community cloud services, provided by Microsoft or Customer meeting the requirements of this Agreement and the Statement of Work and related Documentation, including Software and System Hardware.

2.31 System Acceptance Test; SAT

The terms “System Acceptance Test” and “SAT” shall mean the System test conducted by NEC under the Statement of Work and Acceptance Test Plan.

2.32 Reserved

2.33 Reserved

2.34 System Hardware

The term “System Hardware” shall mean the hardware and networking equipment, and related Documentation, provided by NEC as part of the Solution, including baseline hardware, hardware upgrades and additional hardware.

2.35 System Implementation

The term “System Implementation” shall mean system setup, system and system software installation, Data Migration, System Acceptance Tests, training and other work to be provided by NEC under this Agreement.

2.36 Third Party Software

The term “Third Party Software” shall mean any software of third parties provided by NEC to Customer under this Agreement as part of the Solution.

2.37 Training

The term “Training” shall mean training relating to the Solution to be provided by NEC pursuant to this Agreement, including initial System Training and additional Training that Customer may request as part of Professional Services.

2.38 Reserved

3 ADMINISTRATION OF AGREEMENT

3.1 Key Personnel

3.1.1 *Project Manager(s)*

NEC and Customer each shall designate a Project Manager (“Project Manager(s)”) who will be responsible for ensuring that the technical, business and operational standards and requirements of this Agreement are met.

3.2 Personnel

Customer is responsible for maintaining a list of Customer employees authorized to request changes and providing such list to NEC as necessary. Customer maintains sole responsibility for informing NEC of Customer employee status changes.

4 CHANGES NOTICES

4.1 General

No representative of either NEC or Customer, including those named in this Agreement, is authorized to make any changes to the Solution, except through the procedures set forth in this Section 4.

4.2 Change Notices

- (a) When an authorized representative for each party agrees on any change that has no material financial impact (i) on the cost, (ii) scope and/or specifications, a written Change Notice shall be issued and executed by an authorized representative of each party.
- (b) If changes in design, workmanship, or material are of such a nature as to impact the cost of any part of the work or Services; NEC will use commercially reasonable efforts to evaluate the implications of such change, including, without limitation, the cost and schedule. The Project Manager, or an authorized representative for both parties shall agree upon a reasonable and proper allowance for the adjustment in the cost of the Services to be performed under this Agreement, and an Amendment to the Agreement shall be executed by authorized representatives of each party.
- (c) Changes made in accordance with the foregoing procedure shall be effective upon approval by the Customer's Board of Supervisors.

4.3 Facsimile and Electronic Signatures

The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

5 SCOPE OF WORK

In exchange for Customer's payment to NEC of the applicable Service Fees invoiced by NEC and arising under this Agreement, NEC shall (a) provide Services, Deliverables and Optional Work set forth in this Agreement, in accordance with Exhibit A – Statement of Work; and (b) grant to Customer the License to use the Software provided by NEC under the Agreement, as specified in Section 9 (Ownership and License). The System shall be deployed and hosted on Microsoft's Azure Government cloud.

5.1 System Components

NEC will provide the License for Customer to use the Solution in order to meet the system requirements as such may be revised during the term of the Agreement, all in accordance with

the provisions of Section 9 (Ownership and License) and the Agreement, pursuant to and as set forth in SOW and other applicable Exhibits.

5.2 System Implementation

NEC shall provide System Implementation Services, including but not limited to System setup, installation, testing, training, baseline customizations and/or baseline interfaces, and other applicable Services, through Final Acceptance of the System, as required for the implementation of the Solution, as specified in the Statement of Work and elsewhere in the Agreement.

5.3 Maintenance

NEC shall, during the term of this Agreement, provide to Customer maintenance and support services, in exchange for Customer's payment of the applicable Service Fees as set forth in Exhibit B – Pricing and Payment Schedule. Service Fees will be paid by Customer to NEC for maintenance periods commencing upon Final Acceptance.

5.4 Optional Work

Upon the written request of Customer, and upon mutual agreement, NEC may provide to Customer Optional Work, including software modifications, Professional Services and/or additional workstations or other Additional Products.

NEC shall provide to Customer a proposed quotation, including the Fixed Hourly Rate, if applicable. NEC's quotation shall be valid for at least ninety (90) days, or a timeframe as NEC may specify at the time of quote submission. Prior to Customer's acceptance of the quote and completion of the Optional Work by NEC, this Agreement shall be updated accordingly to add such items of Optional Work by Change Notice executed in accordance with Section 4 (Changes Notices).

5.5 Standard of Services

NEC's Services required by this Agreement shall, during the term of the Agreement, conform to reasonable commercial standards as they exist in NEC's profession or field of practice.

5.6 Customer's Acts or Omissions

Customer agrees to provide all information, access and full good faith cooperation reasonably necessary for NEC to deliver and provide the Services under this Agreement. In the event Customer's acts or omission causes a delay, impact or failure in NEC's ability to deliver the Services, NEC shall be relieved of liability to the extent that such delay, impact or failure affects NEC's ability to timely perform the Services. The parties may mutually agree to issue a Change Notice to mitigate such liability.

6 TERM

6.1 Initial Term

The term of this Agreement shall commence upon the Effective Date and shall expire six (6) years following the Final Acceptance of the Solution unless sooner terminated or extended, as provided in this Agreement (hereinafter “Initial Term”).

6.2 Extended Term

At the end of the Initial Term, Customer may extend this Agreement for two (2) years (hereinafter “Extended Term”). Customer may only exercise its extension option by notifying NEC in writing of its election to extend the Agreement pursuant to this Section 6 no later than six (6) months prior to the expiration of the Initial Term. NEC reserves the right to adjust the Service Fees for changes in the scope of Services at any point after the commencement of the Initial Term or for changes in NEC’s standard Service rates at the beginning of any Extended Term (“Service Fee Adjustment”), (collectively the “Extended Term and “Initial Term” shall be considered the Term).

7 TERMINATION

7.1 Termination

Either party has the right to terminate this Agreement if the other party materially breaches this Agreement. However, written notice of material breach of this Agreement must first be provided to other party, and the other party shall have the opportunity to cure such breach within thirty (30) days from the date of receipt of the written notice. There is no termination if the breach is cured within the period, or such a cure is impractical within the period, or if the parties otherwise agree not to terminate.

In addition, NEC reserves the right, at NEC’s option, to terminate or suspend performance under this Agreement and discontinue providing Services to Customer in the event:

- (a) Customer fails to pay the Service Fees when due and such failure shall remain uncured for a period of fifteen (15) days after Customer’s receipt of written notice of termination from NEC;
- (b) Customer materially or repeatedly fails to cure its breach (other than a payment breach addressed in (a) above) of any of these terms or conditions in this Agreement within ten (10) days after the written notice provided by NEC;
- (c) Customer violates any applicable law, rule, regulation or policy of any governmental authority in its use of the Solution;
- (d) Customer misuse of the Solution in breach of License limitations;
- (e) Customer makes a material misrepresentation to NEC in connection with the ordering or delivery of the Services;
- (f) Customer engages in any fraudulent use of the Solution;
- (g) Customer files bankruptcy or fails to discharge an involuntary petition within sixty (60) days.

Customer understands that pricing under this Agreement, including any discounts, is based upon Customer's commitment to purchase the Services for the entire Term. During the Term, Customer may request an adjustment in the size, capacity and/or scope of the number of hosted components, the acceptance of which shall be accompanied by a commensurate adjustment in the Service Fees and shall be in accordance with Section 4 (Changes Notices).

7.2 Termination for Non-Appropriation

This Agreement may be terminated by Customer upon thirty (30) days' prior written notice if Customer does not approve or otherwise receive funds sufficient to continue payments set forth in this Agreement. In the event of termination due to a lack of appropriations, Customer will pay NEC for all undisputed fees and expenses related to the software and/or services received prior to the effective date of termination.

8 INVOICES AND PAYMENTS

8.1 Invoices

NEC shall invoice Customer in accordance with Exhibit B – Pricing and Payment Schedule (i) for Services Fees annually for maintenance periods commencing upon Final Acceptance, and (ii) for the actual price expended by NEC upon completion of any Optional Work, if applicable.

("Purchase Order") means a Customer-issued document used for ordering Optional Work under this Agreement. All Purchase Orders are subject to review and acceptance by an authorized representative of NEC. No preprinted Purchase Order terms shall be binding upon NEC, unless otherwise expressly agreed to in writing by an authorized representative of NEC.

8.2 Delivery of Software

NEC shall provide any Software or Documentation under this Agreement, (i) in an electronic format (e.g., via electronic mail or internet download) or (ii) personally by NEC staff who shall load such Software and Documentation.

Any Software and Documentation that is provided or delivered by NEC to Customer in a tangible format shall be F.O.B. Destination.

8.3 Taxes

Any taxes shall be in addition to the Service Fees listed and if required to be collected or paid by NEC shall be paid by Customer to NEC. If claiming a sales tax or similar exemption, Customer must provide NEC with valid tax exemption certificates.

8.4 Payments

The initial payment date for Service Fees hereunder shall be the sixty (60) days following Final Acceptance. Thereafter, Customer shall make payment of the Service Fees or any Service Fee Adjustment within sixty (60) days of receipt of an invoice from NEC.

8.5 Customer Rights to Withhold Payment

Notwithstanding any other provision of this Agreement, and in addition to any rights of Customer given by law or provided in this Agreement, Customer may upon written notice to NEC withhold payment for any deliverable while NEC is in default hereunder or default related to the Statement of Work, provided that such default has not been remedied in accordance with the terms of this Agreement or such default is not caused by reasons, including delays, caused by the Customer. Payments shall not be unreasonably withheld, and Customer's approval of deliverables and/or Statement of Work shall be in accordance with this Agreement.

9 OWNERSHIP AND LICENSE

9.1 Ownership

9.1.1 Software

NEC shall own and retains all right, title and interest, worldwide, in any and all proprietary System Hardware, Software, including related Documentation, technology, ideas, methods, processes, know-how, and related Documentation ("NEC Licensed Technology"). NEC Licensed Technology is and shall remain the property of NEC or any rightful third party owner, with which all proprietary rights shall reside, and which shall be subject to the terms of the License granted pursuant to Section 9.2 (License) below. The NEC Licensed Technology is the confidential and copyrighted property of NEC, or its licensors, and all rights therein not expressly granted to Customer are reserved to NEC, or its licensors. Upon termination or expiration of this Agreement, NEC shall remove all copies or embodiments of NEC Technology from Customer's network and Customer shall immediately cease use of such NEC Licensed Technology.

9.1.2 Customer Data

All Customer Data is and shall remain the property of Customer. NEC safeguards the security of such data with industry standard physical, electronic, and managerial procedures. The field of information security is one in which the risks and threats change daily, although NEC strives to keep Customer Data secure, no security measures are absolute. NEC cannot anticipate each and every threat which can develop in the future and, as such, cannot guarantee that Customer Data will never be disclosed, for example, as the result of unauthorized acts by third parties. NEC will promptly notify Customer if it's determined that NEC experienced a security breach, and that there is a reasonable likely risk of data theft, or other security breach as otherwise required by law.

9.1.3 Vendor License

Microsoft is the vendor of and provides the government community cloud services, which NEC hereby resells to Customer, as part of the Solution. The terms and conditions of the Microsoft license and service are attached hereto as Exhibit E – Microsoft Cloud Agreement. Customer hereby accepts those terms and conditions. In the event there is any inconsistency or conflict between the terms of this Agreement and Exhibit E, with respect to the Microsoft product and services, Exhibit E shall govern.

9.2 License

9.2.1 License Grant

Subject to the applicable provisions and limitations of this Agreement, including but not limited to, Exhibit D – Software License Agreement, the Statement of Work and Section 9 (Ownership and License), NEC hereby grants to Customer a license to use the Software, Third Party Software, including any related Documentation (hereinafter “License”), during the Term. Customer shall also comply with any and all third-party technology licenses utilized in the provisioning of the Services. Additionally, Customer shall use the Solution in strict accordance with applicable, laws, rules, and regulations. Any violation thereof is deemed a material breach of this Agreement.

10 ACCEPTANCE

10.1 System Acceptance Testing

The Acceptance Test Plan shall be prepared and agreed upon by both parties and is the reflection of the mutually agreed upon Statement of Work. Final Acceptance shall occur upon the date of successful completion of System Acceptance Testing as specified below. Final Acceptance shall be final and not subject to any revocation by Customer.

The System Acceptance Test shall be conducted expeditiously. Within three (3) days of NEC’s written notice that the System has been installed and is ready for System Acceptance Testing, NEC’s personnel shall begin to conduct System Acceptance Testing. Customer shall complete the System Acceptance Testing within the timeframe allowed in the Acceptance Test Plan. The System shall be accepted on the date that the Acceptance Test Plan is successfully completed, or parties agree to acceptance with a list of deficiencies (punch list) or when the System is in Productive Use by the Customer as provided below, whichever occurs first (the “Final Acceptance Date”). If the System Acceptance Testing discloses operational Deficiencies in the System, the parties shall prepare and mutually agree to a detailed list of all such Deficiencies. NEC shall correct all Deficiencies placed on the list of Deficiencies according to a mutually agreed timeframe. In the event that the System fails to pass System Acceptance Testing as described in the Acceptance Test Plan, Customer shall repeat testing of the deficient items once NEC has made the necessary changes and agree to accept the System either without Deficiency or with a mutually agreed Deficiency list and correction timeframe. Such time period to correct Deficiencies may be extended by mutual consent.

10.2 PRODUCTIVE USE

The System shall achieve Go-Live and shall be ready for Productive Use when Customer, approves in writing Deliverables within Exhibit A – Statement of Work. In the event any System Hardware or Software delivered after the date of execution of this Agreement is put into Productive Use by the Customer, notwithstanding any failure to pass any System Acceptance Test, and such Productive Use extends for a cumulative duration in excess of sixty (60) days, then the Solution shall be deemed accepted.

11 WARRANTIES

11.1 General Warranties

- (a) NEC warrants that the Services provided to Customer shall substantially conform to Exhibit A – Statement of Work, and be free, at the time of delivery, of harmful code (i.e. computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or Software).
- (b) NEC warrants that its personnel are adequately trained and competent to perform the Services and that the Services shall be performed in a professional manner in accordance with industry standards.

11.2 Disclaimer of Warranties

EXCEPT FOR THE EXPRESS WARRANTIES CONTAINED IN THIS AGREEMENT, THE SERVICES AND NEC TECHNOLOGY ARE PROVIDED “AS IS.” NEITHER PARTY MAKES ANY OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, IN FACT OR IN LAW, CONCERNING THE SERVICES OR ANY OTHER MATTER COVERED BY THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES ARISING BY STATUTE OR OTHERWISE AT LAW OR FROM A COURSE OF DEALING, USAGE OR TRADE.

12 INDEMNIFICATION

NEC shall indemnify, hold harmless, and defend any action, suit or proceeding brought against Customer so far as it is based on a claim that the use or transfer of any System Hardware or Software delivered hereunder constitutes an infringement of any United States patent, copyright, or trade secret, provided that NEC is promptly notified by Customer of the action and given full authority, information and assistance (at NEC’s expense) for the defense of the action. NEC shall pay all damages and costs awarded therein against Customer but shall not be responsible for any compromise made without its consent. NEC may, at any time it is concerned over the possibility of such an infringement, at its option and expense, change or reasonably modify the aforementioned products and/or Services so that infringement will not exist.

However, in no event shall NEC be liable for any claims or demands attributable to the negligence or misconduct of Customer or failure of Customer to fulfill their responsibilities under this Agreement to the extent such negligence, misconduct, or failure gave rise to the liability.

Exclusive Remedy. The foregoing provisions state the entire liability and obligations of each party, and the exclusive remedy of the other, with respect to any alleged intellectual property infringement hereunder.

13 LIMITATION OF LIABILITY

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING LOST PROFITS AND LOST SAVINGS) SUFFERED OR INCURRED

BY SUCH OTHER PARTY IN CONNECTION WITH THE SERVICES, OR ANY OTHER MATTER COVERED BY THIS AGREEMENT, REGARDLESS OF THE FORM OR THEORY OF THE ACTION, (INCLUDING NEGLIGENCE), EVEN IF SUCH OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

EXCLUDING NEC'S INDEMNIFICATION OBLIGATIONS, AND LIABILITY ARISING FROM NEC'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR VIOLATION OF APPLICABLE LAW, NEC'S TOTAL CUMULATIVE LIABILITY TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED ONE MILLION DOLLARS (US \$1,000,000).

14 INSURANCE

14.1 Insurance Coverage

NEC SHALL HAVE AND MAINTAIN IN FULL FORCE AND EFFECT FOR THE DURATION OF THIS AGREEMENT INSURANCE INSURING AGAINST CLAIMS FOR INJURIES TO PERSONS OR DAMAGES TO PROPERTY WHICH MAY ARISE FROM OR IN CONNECTION WITH THE PERFORMANCE OF THE SERVICES BY NEC, ITS AGENTS, REPRESENTATIVES, OR EMPLOYEES.

NEC SHALL MAINTAIN COVERAGE AND LIMITS NO LESS THAN:

- (a) COMPREHENSIVE GENERAL LIABILITY OF \$1,000,000 PER OCCURRENCE FOR BODILY AND PERSONAL INJURY, SICKNESS, DISEASE OR DEATH, INJURY TO OR DESTRUCTION OF PROPERTY, INCLUDING LOSS OF USE RESULTING THEREFROM, AND \$2,000,000 IN AGGREGATE.
- (b) COMPREHENSIVE AUTOMOBILE LIABILITY (ANY AUTO) OF \$1,000,000 COMBINED SINGLE LIMIT PER OCCURRENCE FOR BODILY AND PERSONAL INJURY, SICKNESS, DISEASE OR DEATH, INJURY TO OR DESTRUCTION OF PROPERTY, INCLUDING LOSS OF USE RESULTING THEREFROM.
- (c) PROFESSIONAL LIABILITY OF \$1,000,000 LIMIT FOR CLAIMS ARISING OUT OF PROFESSIONAL SERVICES CAUSED BY NEC'S ERRORS, OMISSIONS, OR NEGLIGENT ACTS.
- (d) WORKERS' COMPENSATION LIMITS AS REQUIRED BY THE STATE OF CALIFORNIA AND EMPLOYERS LIABILITY LIMITS OF \$1,000,000 PER ACCIDENT.
- (e) UMBRELLA LIABILITY OF \$1,000,000
- (f) CYBER LIABILITY OF \$1,000,000 PER OCCURRENCE AND AN ANNUAL AGGREGATE OF \$2,000,000 COVERING PRIVACY VIOLATIONS, INFORMATION THEFT, DAMAGE OR DESTRUCTION OF ELECTRONIC INFORMATION, INTENTIONAL AND/OR UNINTENTIONAL RELEASE OF PRIVATE INFORMATION, ALTERATIO OF ELECTRONIC INFORMATION, EXTORTION, AND NETWORK SECURITY. THE POLICY SHALL PROTECT THE CUSTOMER AND COVER BREACH RESPONSE COST AS WELL AS REGULATORY FINES AND PENALTIES.

14.2 Insurance requirements

NEC agrees to provide insurance set forth in accordance with the requirements herein. If NEC uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, NEC agrees to amend, supplement or endorse the existing coverage to do so.

- (a) **Additional Insured.** All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the Customer and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the Customer to vicarious liability but shall allow coverage for the Customer to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.
- (b) **Waiver of Subrogation Rights.** NEC shall require the carriers of required coverages to waive all rights of subrogation against the Customer, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit NEC and NEC's employees or agents from waiving the right of subrogation prior to a loss or claim. NEC hereby waives all rights of subrogation against the Customer.
- (c) **Policies Primary and Non-Contributory.** All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the Customer.
- (d) **Severability of Interests.** NEC agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between NEC and the Customer or between the Customer and any other insured or additional insured under the policy.
- (e) **Proof of Coverage.** NEC shall furnish Certificates of Insurance to the Customer Department administering the Agreement evidencing the insurance coverage at the time the Agreement is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and NEC shall maintain such insurance from the time NEC commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this Agreement, NEC shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.
- (f) **Acceptability of Insurance Carrier.** Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".
- (g) **Deductibles and Self-Insured Retention.** Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.
- (h) **Failure to Procure Coverage.** In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, the Customer has the right but not the obligation or duty to cancel the Agreement

or obtain insurance if it deems necessary and any premiums paid by the Customer will be promptly reimbursed by NEC or Customer payments to NEC will be reduced to pay for Customer purchased insurance.

- (i) **Insurance Review.** Insurance requirements are subject to periodic review by the Customer. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the Customer. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the Customer, inflation, or any other item reasonably related to the Customer's risk. Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. NEC agrees to execute any such amendment within thirty (30) days of receipt. Any failure, actual or alleged, on the part of the Customer to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the Customer.

15 CONFIDENTIALITY

15.1 Confidentiality

The parties acknowledge that, during the Term of this Agreement, each party may provide the other with or otherwise expose the other party to confidential and/or proprietary information, including but not limited to data, information, ideas, materials, specifications, procedures, software, technical processes and formulas, product designs, sales, cost and other unpublished financial information, product and business plans, usage rates, marketing data or other relevant information clearly intended to be confidential (collectively, "Confidential Information"). The parties agree that all Confidential Information disclosed by the other party shall be held in confidence and used only in performance of Services under this Agreement, and shall not be disclosed to any third parties other than NEC's subcontractor for this Services. The receiving party shall exercise the same standard of care to protect such Confidential Information as is used to protect its own proprietary data, but in no event, less than a reasonable standard of care. Notwithstanding anything in the foregoing, NEC understands that Customer is a political subdivision organized under the California Constitution and is subject to, among other laws, decisions, rules and statutes, the Ralph M. Brown Act, the California Public Records Act, and the San Bernardino County Sunshine Ordinance (collectively, "Applicable Laws") and that this Agreement will be made public as part of Customer's approval process for this Agreement as required by Applicable Laws.

15.2 Exclusions

Confidential Information shall not include information which: (i) is or becomes known publicly through no fault of the receiving party; (ii) is learned by the receiving party from a third party entitled to disclose it; (iii) is already known to the receiving party before receipt from the disclosing party; (iv) is independently developed by the receiving party; or (v) must be disclosed by operation

of law. The receiving party shall promptly notify the disclosing party of any such request for disclosure in order to allow the disclosing party full opportunity to seek the appropriate protective orders. In addition, NEC shall not be required to keep confidential any ideas, concepts, know-how, or techniques of general application relating to information monitoring, management or security submitted to NEC or developed by NEC personnel, either alone or jointly with Customer's personnel.

15.3 Reserved

16 INDEPENDENT CONTRACTOR STATUS

NEC IS AN INDEPENDENT CONTRACTOR. THE PERSONNEL OF ONE PARTY SHALL NOT IN ANY WAY BE CONSIDERED AGENTS OR EMPLOYEES OF THE OTHER. TO THE EXTENT PROVIDED FOR BY LAW, EACH PARTY SHALL BE RESPONSIBLE FOR THE ACTS OF ITS OWN EMPLOYEES. EACH PARTY SHALL BE RESPONSIBLE FOR WORKERS' COMPENSATION COVERAGE FOR ITS OWN PERSONNEL.

17 RISK OF LOSS

NEC shall pass risk of loss to Customer upon Delivery. All Deliverables will be shipped via F.O.B. destination. NEC will select the carrier for shipment and Customer will bear the shipping costs.

18 RECORDS AND AUDITS

To ensure compliance with this Agreement, including the Software License Agreement, upon thirty (30) days written notice, Customer grants to NEC and its agents the right to audit Customer's use of the Solution upon reasonable advance written notice during normal business hours.

19 APPLICABLE LAWS AND DISPUTE RESOLUTION PROCEDURE

- (a) This Agreement shall be deemed to be made in and shall be construed in accordance with the laws of, the State of California. The parties agree that the venue of any action or claim brought by any party to this Agreement will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District. The Uniform Computer Information Transactions Act does not apply to this Agreement or any change order.
- (b) Any dispute, as to the interpretation of, subject matter of, or in any way relating to this Agreement, is to be resolved by the two parties attempting to reach a fair and equitable resolution by using, in good faith, one or more of the following means, in the order listed, until a resolution is arrived at.

The means to be used are:

- 1) negotiation,
- 2) mediation;

- 3) arbitration; or
- 4) legal proceedings in a court of competent jurisdiction
- (c) If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under indemnification and insurance obligations.

20 CUSTOMER ACKNOWLEDGEMENTS

- (a) Customer agrees not to (i) rent, lease, or loan the Service or any part thereof, or provide or use the Service on a third party's behalf, if applicable; (ii) permit third parties to benefit from the use of the Service; (iii) reverse engineer, decompile, or disassemble any Software that provides the Service, or otherwise attempt to derive the source code of such Software; or (iv) download, export, or re-export any Software or technical data received hereunder, regardless of the manner in which received, without all required United States and foreign government licenses.
- (b) Customer complies with any applicable laws and regulations for using the Services and is solely responsible for complying with the legal obligations of all local country data protection legislation, in particular with the legality of transmission of data to NEC and the legal requirements for processing of data.
- (c) Customer is responsible for the management and maintenance of any non-hosted components according to their respective manufacturer specifications.
- (d) Customer agrees to provide all reasonable information, access and in good faith cooperate with NEC to deliver and provide the Services and agrees that NEC's delivery of the Services depends upon the Customer's timely cooperation and assistance as NEC may reasonably require.
- (e) Customer acknowledges that export laws and regulations of the United States and other relevant local export laws and regulations apply to the Solution. Customer agrees that such export control laws govern Customer's use of the Solution and Customer agrees to comply with all such export laws and regulations (including "deemed export" and deemed "re-export" regulations.) Customer agrees not export or re-export any System Hardware and/or Software outside of the jurisdiction in which you obtained it without the appropriate United States or foreign government licenses.

21 ASSIGNMENT

This Agreement may not be assigned in whole or in part by either party, without the further consent written consent of the other party, which shall not be unreasonably withheld.

22 WAIVER, VALIDITY AND SEVERABILITY

22.1 Waiver

The failure by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other Party at the time

designated shall not be construed as a waiver of any such default or right to which the other Party is entitled, nor shall it in any way affect the right of the Party to enforce such provisions thereafter.

22.2 Validity

The invalidity of any provision of this Agreement shall not render the other provisions hereof invalid, unenforceable or illegal, unless the essential purposes of this Agreement shall be materially impaired thereby.

22.3 Severability

In the event that any provision herein contained is held to be invalid, void or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement, if practicable, and shall in no way affect, impair or invalidate any other provision contained herein. If any such provision shall be deemed invalid in its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law. If any provision of this Agreement is adjudged void or invalid for any reason whatsoever but would be valid if part of the wording thereof were deleted or changed, then such provision shall apply with such modifications as may be necessary to make it valid and effective.

23 NOTICES

NOTICE TO PARTIES

ALL NOTICES UNDER THIS AGREEMENT SHALL BE DELIVERED PERSONALLY, SENT BY CONFIRMED FACSIMILE TRANSMISSION, SENT BY NATIONALLY RECOGNIZED EXPRESS COURIER, OR SENT BY CERTIFIED OR REGISTERED U.S. MAIL, RETURN RECEIPT REQUESTED, TO THE ADDRESS SHOWN BELOW OR SUCH OTHER ADDRESS AS MAY BE SPECIFIED BY EITHER PARTY TO THE OTHER PARTY IN COMPLIANCE WITH THIS SECTION. NOTICES SHALL BE DEEMED EFFECTIVE ON PERSONAL RECEIPT, RECEIPT OF SUCH ELECTRONIC FACSIMILE WITH CONFIRMATION, TWO (2) DAYS AFTER SUCH DELIVERY BY COURIER, OR FOUR (4) DAYS AFTER SUCH MAILING BY U.S. MAIL, AS THE CASE MAY BE. NOTICES SHALL BE SENT AS FOLLOWS:

Notices to NEC shall be addressed to:

NEC Corporation of America
3929 W. John Carpenter Frwy
Irving, TX 75063
Attn: Legal Division – Contract Administration Department

With a copy to:

NEC Corporation of America
10850 Gold Center Drive, Suite 200
Rancho Cordova, California 95670
Attn: SVP, Biometrics

Notices to Customer shall be addressed to:

San Bernardino County Sheriff's Department
CAL-ID Division
880 E. Mill St
San Bernardino, CA 92415

With a copy to:

San Bernardino County Counsel
385 N. Arrowhead Avenue, 4th Floor
San Bernardino, CA 92415

And to:

San Bernardino County Sheriff's Department
Bureau of Administration – Contracts Unit
655 E. Third Street
San Bernardino, CA 92415

24 CAPTIONS AND SECTION HEADINGS

Captions and section headings used in this Agreement are for convenience only, are not a part of this Agreement, and shall not be used in construing this Agreement. If there is a conflict when referencing a section in this Agreement, between the section heading title and its number, the section heading title shall control.

25 FORCE MAJEURE

Neither party shall be liable for failure to perform under this Agreement, if its failure to perform arises out of fires, floods, epidemics, pandemics quarantine restrictions, other natural occurrences, strikes, freight embargoes or acts of terrorism, but in every such case the failure to perform must be totally beyond the control and without any fault of the non-performing party.

26 NOTICE OF DELAYS

Exception as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within ten (10) Business Days, give notice thereof, including all relevant information with respect thereto, to the other party.

27 IRAN CONTRACTING ACT

IRAN CONTRACTING ACT OF 2010, Public Contract Code section 2200 et seq. (Applicable for all Contracts of one million dollars (\$1,000,000) or more). In accordance with Public Contract Code section 2204, subdivision (a), NEC certifies that at the time the Agreement is signed, NEC is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 as a company (as defined in Pub. Contract Code, § 2202, subd. (e)) engaging in investment

activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a company described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

NEC is cautioned that making a false certification may subject NEC to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205.

28 LEVINE ACT – CAMPAIGN CONTRIBUTIONS DISCLOSURE (FORMERLY REFERRED TO AS SENATE BILL 1439)

NEC has disclosed to the Customer using Attachment F – Levine Act – Campaign Contribution Disclosure (formerly referred to as Senate Bill 1439), whether it has made any campaign contributions of more than \$500 to any member of the San Bernardino County (“County”) Board of Supervisors or other County elected officer, including County Sheriff/Coroner/Public Administrator, within the earlier of: (1) the date of the submission of NEC’s proposal to the Customer, or (2) 12 months before the date the Agreement was approved by the County Board of Supervisors. NEC acknowledges that under California Government Code section 84308, NEC is prohibited from making campaign contributions of more than \$500 to any member of the County Board of Supervisors or other County elected officer, including County Sheriff/Coroner/Public Administrator, for 12 months after the County’s consideration of the Agreement.

In the event of a proposed amendment to the Agreement, NEC will provide the Customer a written statement disclosing any campaign contribution(s) of more than \$500 to any member of the County Board of Supervisors or other County elected officer, including County Sheriff/Coroner/Public Administrator, within the preceding 12 months of the date of the proposed amendment.

Campaign contributions include those made by any agent/person/entity on behalf of NEC or by a parent, subsidiary, or otherwise related business entity of NEC.

29 BACKGROUND CHECKS AND REMOVAL OF NEC’S PERSONNEL

All NEC’s staff and/or subcontractors performing work under this Agreement shall be required to undergo and pass, to the satisfaction of Customer, a background investigation as a condition of beginning and continuing work under any resultant Agreement. Such background investigation may include, but shall not be limited to, criminal conviction information obtained through fingerprints submitted to the California Department of Justice and the Federal Bureau of Investigation. All fees associated with said background investigation(s), including Live Scan for Department of Justice and Federal Bureau of Investigation, shall be at the expense of the NEC, regardless if the member of NEC’s staff and/or subcontractor passes or fails the background investigation. Fees associated with background investigations are currently \$49 and are subject to change.

NEC shall provide a list of individuals who would render Services as staff. These individuals may not be changed without prior written permission of the Customer, which shall not be unreasonably withheld. NEC shall submit to the Customer, or to the assigned Customer Program Manager, a current roster including all staff and/or subcontractors who are required to enter Customer facilities and/or systems to perform Services under this Agreement. The roster shall possess

photo identification and shall meet the Customer's requirements for admission into any Customer facility.

All staff and subcontractors who will, or might, work on-site at Customer's facilities at any time, or who will have access to the Customer's network and/or systems via a Virtual Private Network (VPN) or other similar method, must have passed a background check and security clearance before appearing at any Customer facility or accessing any application or network over which Customer data is available. Access to VPN shall be requested by NEC from Customer's Technical Services Division every time its staff requires access to the network and/or systems.

NEC's employees and subcontractors shall have to complete a Sheriff's Department Background Check which might include completing additional forms, including non-disclosure agreements, at any time. Non-disclosure agreements acknowledge that information NEC personnel and/or subcontractors may encounter while at any Customer facility/system is confidential and proprietary. Any unauthorized release of confidential or proprietary information by NEC, its personnel, and/or subcontractors shall constitute a breach of Agreement and will be punishable by law. Customer reserves the right to enforce any available remedy at law, or in equity, in the event of such breach and are in addition to the NEC's internal policy regarding background checks.

Customer may immediately, at the sole discretion of the Customer, deny or terminate facility and/or system access to any of NEC's staff, subcontractors, or agents who do not pass such investigation(s) to the satisfaction of Customer, by reason of background or conduct incompatible with Customer facility/system access. NEC shall immediately remove the staff, subcontractor, or agent from his/her assignment. Customer will not provide to NEC, NEC's staff and/or subcontractors any information obtained through Customer's background investigation.

NEC shall immediately notify the Customer's assigned Program Manager regarding any staff re-assignment, discharge, or termination of employment in order that they may be removed from the facility/system access roster. NEC's notifications regarding any such action shall be submitted verbally (within 24 hours), followed by written notification (within five (5) business days). NEC shall also be required to provide written notification to the Customer, no less than forty-eight (48) hours in advance, of its intent to bring visitor(s) to a Customer facility.

Disqualification, if any, of NEC's staff, subcontractors, or agents pursuant to this Section 29 – Background Checks and Removal of NEC's Personnel shall not relieve NEC of its obligations to complete all work in accordance with the terms and conditions of this Agreement.

IN WITNESS WHEREOF, NEC and Customer by their duly authorized signatures have caused this Agreement to be effective on the day, month and year first above written.

San Bernardino County:

By _____

Signature

Dawn Rowe

Print Name

Title Chair, Board of Supervisors

NEC Corporation of America:

By _____

Signature

Print Name

Title _____

EXHIBIT A – STATEMENT OF WORK

PLACE HOLDER FOR STATEMENT OF WORK

EXHIBIT B – PRICING AND PAYMENT SCHEDULE

PLEASE SEE SOW FOR PRICING AND PAYMENT SCHEDULE

PRICING AND PAYMENT TERMS:

(a) TAXES.

ANY TAXES SHALL BE IN ADDITION TO THE SERVICE FEE LISTED AND IF REQUIRED TO BE COLLECTED OR PAID BY NEC SHALL BE PAID BY CUSTOMER TO NEC. IF CLAIMING A SALES TAX OR SIMILAR EXEMPTION, CUSTOMER MUST PROVIDE NEC WITH VALID TAX EXEMPTION CERTIFICATES.

(b) INVOICES.

ALL INVOICES WILL BE SENT TO CUSTOMER VIA EMAIL (“E-INVOICING”) USING THE EMAIL ADDRESS(ES) OF THE CONTACT(S) PROVIDED TO NEC BY CUSTOMER BELOW, UNLESS CUSTOMER EXPRESSLY ELECTS TO OPT OUT OF E-INVOICING. CUSTOMER AGREES TO NOTIFY NEC IN WRITING, IF CUSTOMER CHANGES ITS CONTACT(S) FOR THE RECEIPT OF E-INVOICING. ALL PAYMENTS ARE TO BE MADE IN U.S. DOLLARS. PAYMENTS MAY BE MADE VIA APPROVED CREDIT CARDS AT THE TIME THE APPLICABLE ORDER IS PLACED. NEC’S REMITTANCE ADDRESS SHALL BE THE ADDRESS SPECIFIED WITHIN NEC’S INVOICES.

CUSTOMER’S ACCOUNTS PAYABLE CONTACT FOR E-INVOICING SHALL BE THE FOLLOWING:

NAME: San Bernardino County Sheriff's Department

TITLE: Attn: Bureau of Administration – Accounts Payable

PHONE: _____

EMAIL: BOFA-ACCOUNTSPAYABLE@SBCSD.ORG

EXHIBIT C – FINAL ACCEPTANCE FORM

When NEC has achieved Project Completion, NEC will submit this checklist to Client. If Client fails to provide a Punchlist or sign and return this checklist to NEC within ten (10) days of receipt, the Project will be complete, and NEC will be entitled to invoice Client in accordance with the payment schedule in Section 4 of the SOW.

Implementation Tasks/Deliverables

Date

- | | |
|---|-------|
| 1. Upon SOW Execution | _____ |
| 2. Upon Completion of System Requirements | _____ |
| 3. Upon System Go-live | _____ |
| 4. Upon System Acceptance | _____ |

This is to confirm that as of __/__/20__, NEC has completed Services and provided the Deliverables under the Integra-ID MBIS Upgrade SOW effective __/__/20__.

Submitted By:

NEC Corporation of America

San Bernardino County

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT D – SOFTWARE LICENSE AGREEMENT

NEC CORPORATION OF AMERICA

SOFTWARE LICENSE AGREEMENT

CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS. THE USE OF THE SOFTWARE WHICH IS LICENSED BY NEC CORPORATION OF AMERICA AND ITS LICENSORS TO YOU, FOR YOUR USE ONLY DURING THE TERM OF THE AGREEMENT AND AS SET FORTH BELOW.

1. LICENSE GRANT

Subject to the terms of this license and payment of the applicable license fees, NEC grants Customer a (subject to Section 7 (Termination) in Agreement), non-exclusive, non-transferable license for the following:

System License – to use the Software, including any System Documentation furnished under this Agreement, for Customer's own internal use on the Equipment;

Unit License – to install and use a copy of the Software on your workstation or mobile devices ("Units"), up to the permitted number of Units. The permitted number of Units shall be delineated at such time as Customer's elects to license the Software.

Archive License – If Archive component is included with your Software, the total number of users permitted to use the Archive component of the Software at the same time may not exceed the number of users delineated at such time as Customer's elects to license the Software.

2. RESTRICTIONS

CUSTOMER MAY NOT DO THE FOLLOWING: (I) MODIFY, ADAPT, TRANSLATE OR CREATE DERIVATIVE WORKS BASED UPON THE SOFTWARE; (II) REVERSE ENGINEER, DECOMPILE, DISASSEMBLE OR OTHERWISE ATTEMPT TO DISCOVER THE SOURCE CODE OF THE SOFTWARE EXCEPT TO THE EXTENT YOU MAY BE EXPRESSLY PERMITTED TO REVERSE ENGINEER OR DECOMPILE UNDER APPLICABLE LAW; (III) SELL, RENT, LEASE, TIMESHARE, PROVIDE SUBSCRIPTION SERVICES, LEND, SUBLICENSE, DISTRIBUTE, ASSIGN OR OTHERWISE TRANSFER ANY RIGHTS IN THE SOFTWARE; AND (IV) DISCLOSE OR PUBLISH RESULTS OF ANY BENCHMARK TESTS OF ANY SOFTWARE TO ANY THIRD PARTY WITHOUT NEC'S PRIOR WRITTEN CONSENT. CUSTOMER MAY MAKE ONE BACKUP COPY OF THE SOFTWARE PROVIDED YOUR BACKUP COPY IS NOT INSTALLED OR USED UNTIL NEEDED. CUSTOMER MAY NOT TRANSFER THE RIGHTS TO A BACKUP COPY.

3. INTELLECTUAL PROPERTY OWNERSHIP, RESERVATION OF RIGHTS

CUSTOMER ACKNOWLEDGES AND AGREES THAT (I) NEC AND ITS LICENSORS OWN AND SHALL RETAIN ALL RIGHTS, TITLE AND INTEREST IN AND TO THE SOFTWARE, INCLUDING WITHOUT LIMITATION, ALL INTELLECTUAL PROPERTY RIGHTS EMBODIED THEREIN; AND (II) THE SOFTWARE'S STRUCTURE, ORGANIZATION, SEQUENCE AND SOURCE CODE ARE THE VALUABLE TRADE SECRETS AND

CONFIDENTIAL INFORMATION OF NEC AND/OR ITS LICENSORS. THE SOFTWARE IS PROTECTED BY LAW, INCLUDING WITHOUT LIMITATION THE COPYRIGHT LAWS OF THE UNITED STATES AND OTHER COUNTRIES, AND BY INTERNATIONAL TREATY PROVISIONS. EXCEPT AS EXPRESSLY STATED HEREIN, THIS LICENSE DOES NOT GRANT CUSTOMER ANY INTELLECTUAL PROPERTY RIGHTS IN THE SOFTWARE AND ALL RIGHTS NOT EXPRESSLY GRANTED ARE RESERVED BY NEC AND ITS LICENSORS. CUSTOMER AGREES NOT TO REMOVE OR OBLITERATE ANY COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY RIGHTS NOTICES CONTAINED IN OR ON THE SOFTWARE.

4. THIRD PARTY BENEFICIARIES

CUSTOMER ACKNOWLEDGES AND AGREES THAT NEC'S LICENSORS ARE DIRECT AND INTENDED THIRD PARTY BENEFICIARIES OF THIS SOFTWARE LICENSE AGREEMENT.

5. TERMINATION

THIS LICENSE WILL TERMINATE IMMEDIATELY BY NEC AS SPECIFIED IN SECTION 7 (TERMINATION) OF THE AGREEMENT, UPON SUCH TERMINATION, YOU SHALL IMMEDIATELY REMOVE AND DESTROY ALL COPIES OF THE SOFTWARE OR ANY PARTS THEREOF.

6. LIMITED WARRANTY

EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, NEC AND ITS LICENSORS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES WITH RESPECT TO THE SOFTWARE, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON- INFRINGEMENT OF THIRD-PARTY RIGHTS. NEC DOES NOT WARRANT THAT THE SOFTWARE WILL MEET YOUR REQUIREMENTS, OPERATE IN COMBINATION WITH OTHER PRODUCTS NOT PROVIDED BY NEC, BE UNINTERRUPTED, OPERATE ERROR FREE OR THAT THE ERRORS WILL BE CORRECTED.

7. LIMITATION OF LIABILITY

IN NO EVENT SHALL NEC OR IT'S LICENSORS BE LIABLE TO CUSTOMER FOR (I) ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR (II) ANY DAMAGES OR COSTS RESULTING FROM LOSS OF USE, GOODWILL, DATA, SAVINGS OR PROFITS, WHETHER FORESEEABLE OR UNFORESEEABLE WHICH MAY ARISE OUT OF THE USE OR PERFORMANCE OF THE SOFTWARE. IN NO EVENT WILL NEC'S OR IT'S LICENSORS' AGGREGATE LIABILITY FOR ANY CLAIM, WHETHER IN CONTRACT, TORT OR ANY OTHER THEORY, EXCEED ONE MILLION DOLLARS (US\$1,000,000).

8. U.S. GOVERNMENT RIGHTS

THE SOFTWARE WAS DEVELOPED ENTIRELY AT PRIVATE EXPENSE. THE SOFTWARE LICENSED UNDER THIS AGREEMENT IS "COMMERCIAL COMPUTER SOFTWARE" AS THE TERM IS DESCRIBED IN 48 C.F.R. 252.227-7014(A)(1). IF ACQUIRED BY OR ON BEHALF OF A CIVILIAN AGENCY, THE U.S. GOVERNMENT

ACQUIRES THIS COMMERCIAL COMPUTER SOFTWARE AND/OR COMMERCIAL COMPUTER SOFTWARE DOCUMENTATION SUBJECT TO THE TERMS OF THIS AGREEMENT AS SPECIFIED IN 48 C.F.R. 12.212 (COMPUTER SOFTWARE) AND 48 C.F.R. 12.211 (TECHNICAL DATA) OF THE FEDERAL ACQUISITION REGULATIONS ("FAR") AND ITS SUCCESSORS. IF ACQUIRED BY OR ON BEHALF OF ANY AGENCY WITHIN THE DEPARTMENT OF DEFENSE ("DOD"), THE U.S. GOVERNMENT ACQUIRES THIS COMMERCIAL COMPUTER SOFTWARE AND/OR COMMERCIAL COMPUTER SOFTWARE DOCUMENTATION SUBJECT TO THE TERMS OF THIS SOFTWARE LICENSE AGREEMENT AS SPECIFIED IN 48 C.F.R. 227.7202-3 OF THE DOD FAR SUPPLEMENT ("DFAR") AND ITS SUCCESSORS.

9. EXPORT

THE SOFTWARE SUPPLIED BY NEC UNDER THIS AGREEMENT IS SUBJECT TO EXPORT CONTROLS UNDER THE LAWS AND REGULATIONS OF THE UNITED STATES. CUSTOMER SHALL COMPLY WITH SUCH LAWS AND REGULATIONS GOVERNING EXPORT AND RE-EXPORT AND WILL OBTAIN ALL REQUIRED U.S. AND LOCAL AUTHORIZATIONS, PERMITS OR LICENSES.

10. GOVERNING LAW

THIS SOFTWARE LICENSE AGREEMENT WILL BE CONSTRUED UNDER THE LAWS OF THE STATE OF CALIFORNIA, EXCLUDING THE APPLICATION OF ITS CONFLICTS OF LAW RULES. THE UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT DOES NOT APPLY TO THIS AGREEMENT.

EXHIBIT E – MICROSOFT CLOUD AGREEMENT

Microsoft Cloud Agreement

US Government Community Cloud

This Microsoft Cloud Agreement is incorporated into the Government Contract entered into between the customer who is a Government entity ("Customer") and the person or entity who has entered into a prime contract with the Customer ("Contractor") as an addendum and governs Customer's use of the Microsoft Products. It consists of the terms and conditions below, Use Rights, SLA, and all documents referenced within those documents (together, the "agreement"). It is effective on the date that the Contractor provisions the Customer's Subscription. Key terms are defined in Section 9.

1. *Grants, rights and terms.*

All rights granted under this agreement are non-exclusive and non-transferable and apply as long as neither Customer nor any of its Affiliates is in material breach of this agreement.

- a. **Software.** Upon acceptance of each order, Microsoft grants Customer a limited right to use the Software in the quantities ordered.
 - i. **Use Rights.** The Use Rights in effect when Customer orders Software will apply to Customer's use of the version of the Software that is current at the time. For future versions and new Software, the Use Rights in effect when those versions and Software are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless Customer chooses to have those changes apply.
 - ii. **Temporary and perpetual licenses.** Licenses available on a subscription basis are temporary. For all other licenses, the right to use Software becomes perpetual upon payment in full.
- b. **Online Services.** Customer may use the Online Services as provided in this agreement.
 - i. **Online Services Terms.** The Online Services Terms in effect when Customer orders or renews a Subscription to an Online Service will apply for the applicable Subscription term. For Online Services that are billed periodically based on consumption, the Online Services Terms current at the start of each billing period will apply to usage during that period.
 - ii. **Suspension.** Microsoft may suspend use of an Online Service during Customer's violation of the Acceptable Use Policy or failure to respond to a claim of alleged infringement. Microsoft will give Customer notice before suspending an Online Service when reasonable.
 - iii. **End Users.** Customer controls access by End Users, and is responsible for their use of the Product in accordance with this agreement. For example, Customer will ensure End Users comply with the Acceptable Use Policy.
 - iv. **Customer Data.** Customer is solely responsible for the content of all Customer Data. Customer will secure and maintain all rights in Customer Data necessary for Microsoft

to provide the Online Services to Customer without violating the rights of any third party or otherwise obligating Microsoft to Customer or to any third party. Microsoft does not and will not assume any obligations with respect to Customer Data or to Customer's use of the Product other than as expressly set forth in this agreement or as required by applicable law.

- v. **Responsibility for your accounts.** Customer is responsible for maintaining the confidentiality of any non-public authentication credentials associated with Customer's use of the Online Services.

Customer must promptly notify customer support about any possible misuse of Customer's accounts or authentication credentials or any security incident related to the Online Services.

- c. **Reservation of rights.** Products are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.
- d. **Restrictions.** Customer may use the Product only in accordance with this agreement. Customer may not (and is not licensed to): (1) reverse engineer, decompile or disassemble any Product or Fix, or attempt to do so; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer may not disable, tamper with, or otherwise attempt to circumvent any billing mechanism that meters Customer's use of the Online Services. Except as expressly permitted in this agreement or Product documentation, Customer may not distribute, sublicense, rent, lease, lend, resell or transfer and Products, in whole or in part, or use them to offer hosting services to a third party.
- e. **Preview releases.** Microsoft may make Previews available. **Previews are provided "as-is," "with all faults," and "as-available" and are excluded from the SLA and all limited warranties provided in this agreement.** Previews may not be covered by customer support. Previews may be subject to reduced or different security, compliance, and privacy commitments, as further explained in the Online Services Terms and any additional notices provided with the Preview. Microsoft may change or discontinue Previews at any time without notice. Microsoft also may choose not to release a Preview into "General Availability."
- f. **Verifying compliance for Products.**
 - i. **Right to verify compliance.** Customer must keep records relating to all use and distribution of Products by Customer and its Affiliates. Microsoft has the right, at its expense, to verify compliance with the Products' license terms. Customer must promptly provide any information reasonably requested by the independent auditors retained by Microsoft in furtherance of the verification, including access to systems running the Products and evidence of licenses for Products that Customer hosts, sublicenses, or distributes to third parties. Customer agrees to complete Microsoft's self-audit process, which Microsoft may request as an alternative to a third-party audit.

- ii. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use of Products, then within 30 days Customer must order sufficient licenses to cover its use. If unlicensed use or distribution is 5% or more, the Customer may be completely responsible for the costs Microsoft has incurred in verification, to the extent permitted by 31 U.S.C. § 1341 (Anti- Deficiency Act) and other applicable Federal law or similar state law (as applicable). The unlicensed use percentage is based on the total number of licenses purchased compared to actual install base. Notwithstanding the foregoing, nothing in this section prevents the Customer from disputing any invoice in accordance with the Contract Disputes Act (41 U.S.C. §§7101- 7109), if and as applicable. If there is no unlicensed use, Microsoft will not subject Customer to another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this agreement or to protect its intellectual property by any other legal means.
- iii. **Verification process.** Microsoft will notify Customer at least 30 days in advance of its intent to verify Customers' compliance with the license terms for the Products Customer and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not unreasonably interfere with Customer's operations.

2. Subscriptions, ordering.

- a. **Available Subscription offers.** The Subscription offers available to Customer will be established by the Government Contract and generally can be categorized as one or a combination of the following:
 - i. **Online Services Commitment Offering.** Customer commits in advance to purchase a specific quantity of Online Services for use during a Term and to pay upfront or on a periodic basis for continued use of the Online Service.
 - ii. **Consumption Offering (also called Pay-As-You-Go).** Customer pays based on actual usage with no upfront commitment.
 - iii. **Limited Offering.** Customer receives a limited quantity of Online Services for a limited term without charge (for example, a free trial) or as part of another Microsoft offering (for example, MSDN). Provisions in this agreement with respect to the SLA and data retention may not apply.
 - iv. **Software Commitment Offering.** Customer commits in advance to purchase a specific quantity of Software for use during a Term and to pay upfront or on a periodic basis for continued use of the Software.
- b. **Ordering.**
 - i. Orders must be placed through the Contractor. Customer may place orders for its Affiliates under this agreement and grant its Affiliates administrative rights to manage the Subscription, but, Affiliates may not place orders under this agreement. Customer also may assign the rights granted under Section 1.a and 1.b to a third party for use by that third party in Customer's internal business. If Customer grants any rights to Affiliates or third parties with respect to Software or Customer's Subscription, such Affiliates or third parties will be bound by this agreement and Customer agrees to

- be jointly and severally liable for any actions of such Affiliates or third parties related to their use of the Products.
- ii. The Contractor may permit Customer to modify the quantity of Online Services ordered during the Term of a Subscription. Additional quantities of Online Services added to a Subscription will expire at the end of that Subscription.
 - c. **Pricing and payment.** Prices for each Product and any terms and conditions for invoicing and payment will be established by the Contractor.
 - d. **Renewal.**
 - i. Upon renewal of a Subscription, Customer may be required to sign a new agreement, a supplemental agreement or an amendment to this agreement.
 - ii. Customer's Subscription will automatically renew unless Customer provides the Contractor notice of its intent not to renew prior to the expiration of the Term.
 - e. **Eligibility for Academic, Government and Nonprofit versions.** Customer agrees that if it is purchasing an academic, government or nonprofit offer, Customer meets the respective eligibility requirements listed at the following sites:
 - i. For academic offers, the requirements for educational institutions (including administrative offices or boards of education, public libraries, or public museums) listed at <http://go.microsoft.com/academic>;
 - ii. For government offers, the requirements listed at <http://go.microsoft.com/government>; and
 - iii. For nonprofit offers, the requirements listed at <http://go.microsoft.com/nonprofit>.Microsoft reserves the right to verify eligibility at any time and suspend the Online Service if the eligibility requirements are not met.
 - f. **Taxes.** The parties are not liable for any of the taxes of the other party that the other party is legally obligated to pay and which are incurred or arise in connection with or related to the transactions contemplated under this agreement, and all such taxes will be the financial responsibility of the party who is obligated by operation of law to pay such tax.
3. **Term, termination.**
- a. **Agreement term and termination.** This agreement will remain in effect until the expiration or termination of the Government Contract, whichever is earliest.
 - b. **Cancel a Subscription.** The Government Contract will establish the terms and conditions, if any, upon which Customer may cancel a Subscription.
4. **Security, privacy and data protection.**
- a. **Reseller Administrator Access and Customer Data.** Customer acknowledges and agrees that the Contractor will be the primary administrator of the Online Services for the Term and will have administrative privileges and access to Customer Data, however, Customer may request additional administrator privileges from its Contractor; (ii) Customer can, at its sole discretion and at any time during the Term, terminate its Contractor's administrative privileges; (iii) the Contractor's privacy practices with respect to Customer Data or any services provided by the Contractor are subject to the terms of

the Government Contract and may differ from Microsoft's privacy practices; and (iv) the Contractor may collect, use, transfer, disclose, and otherwise process Customer Data, including personal data. Customer consents to Microsoft providing the Contractor with Customer Data and information that Customer provides to Microsoft for purposes of ordering, provisioning and administering the Online Services.

- b. Customer consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this agreement. Customer may choose to provide personal information to Microsoft on behalf of third parties (including your contacts, resellers, distributors, administrators, and employees) as part of this agreement. Customer will obtain all required consents from third parties under applicable privacy and data protection laws before providing personal information to Microsoft.
- c. Additional privacy and security details are in the Online Services Terms. The commitments made in the Online Services Terms only apply to the Online Services purchased under this agreement and not to any services or products provided by the Contractor.
- d. As and to the extent required by law, Customer shall notify the individual users of the Online Services that their data may be processed for the purpose of disclosing it to law enforcement or other governmental authorities as directed by the Contractor or as required by law, and Customer shall obtain the users' consent to the same.
- e. Customer appoints the Contractor as its agent for purposes of interfacing with and providing instructions to Microsoft for purposes of this Section 4.

5. **Warranties.**

a. **Limited warranty.**

- i. **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date Customer is first licensed for that version. If it does not, and Customer notifies Microsoft within the warranty term, then Microsoft will, at its option, (1) return the price Customer paid for the Software license or (2) repair or replace the Software.
- ii. **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during Customer's use. Customer's remedies for breach of this warranty are in the SLA.

The remedies above are Customer's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse or use inconsistent with this agreement, including failure to meet minimum system requirements. These warranties do not apply to free or trial products, Previews, Limited Offerings, or to components of Products that Customer is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, to the extent not prohibited by applicable law, Microsoft provides no warranties or conditions for Products and disclaims any other express, implied, or statutory warranties for Products,

including warranties of quality, title, non-infringement, merchantability and fitness for a particular purpose.

6. *Defense of third party claims.*

- a. **By Microsoft.** Microsoft will defend Customer against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted under this agreement (unmodified from the form provided by Microsoft and not combined with anything else), misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, as its option, either: (1) modify or replace the Product or fix with a functional equivalent; or (2) terminate Customer's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Customer's continued use of a Product or Fix after being notified to stop due to a third-party claim.
- b. **Customer's agreement.** Customer agrees that use of Customer Data or non-Microsoft software Microsoft provides or otherwise makes available on Customer's behalf will not infringe any third party's patent, copyright or trademark or make unlawful use of any third party's trade secret. In addition, Customer will not use an Online Service to gain unauthorized access to or disrupt any service, data, account or network in connection with the use of the Online Services.
- c. **Rights and remedies in case of possible infringement or misappropriation.** If Microsoft reasonably believes that a claim under this section may result in a legal bar prohibiting Customer's use of the Product or Fix, Microsoft will seek to obtain the right for Customer to keep using it or modify or replace it with a functional equivalent, in which case Customer must discontinue use of the prior version immediately. If these options are not commercially reasonable, Microsoft may terminate Customer's right to the Product or Fix and refund any amounts Customer has paid for those rights to Software and Fixes and, for Online Services, any amount paid for a usage period after the termination date.
- d. **Other terms.** Customer must notify Microsoft promptly in writing of a claim subject to this section; give Microsoft sole control over the defense and settlement (provided that for any Federal Agency Customers, the control of the defense and settlement is subject to 28 U.S.C. 516); and provide reasonable assistance in defending the claim. Microsoft will reimburse Customer for reasonable out of pocket expenses that it incurs in helping. The remedies provided in this section are the exclusive remedies for the claims described in this section.

Notwithstanding the foregoing, and solely with respect to Federal Agency Customers, Microsoft's rights set forth in this section (and the rights of the third party claiming infringement) shall be governed by the provisions of 28 U.S.C. § 1498.

7. *Limitation of liability.*

For each Product, each party's maximum, aggregate liability to the other under this agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Customer was required to pay for the applicable Products during the term of this agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Customer for any incident giving rise to a claim will not exceed the amount Customer paid for the Online Service during the 12 months before the incident; provided that in no event will Microsoft's aggregate liability for any Online Service exceed the amount paid for that Online Service during the Subscription.
- b. **Free Products and distributable code.** For Products provided free of charge and code that Customer is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions. In no event will either party be liable for loss of revenue or indirect, special, incidental, consequential, punitive, or exemplary damages, or damages for loss of use, lost profits, revenues, business interruption, or loss of business information, however caused or on any theory of liability.**
- d. **Exceptions.** The limits of liability in this section apply to the fullest extent permitted by applicable law, but do not apply to: (1) the parties' obligations under Section 6; or (2) violation of the other's intellectual property rights.

For Customers that are Federal Agencies, this Section shall not impair the Customer's right to recover for fraud or crimes arising out of or related to this agreement under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.

8. **Miscellaneous.**

- a. **Notices.** You must send notices by mail, return receipt requested, to the address below.

Notices should be sent to:	Copies should be sent to:
Microsoft Corporation Volume Licensing Group One Microsoft Way Redmond, WA 98052 USA Via Facsimile: (425) 936-7329	Microsoft Corporation Legal and Corporate Affairs Volume Licensing Group One Microsoft Way Redmond, WA 98052 USA Via Facsimile: (425) 936-7329

Customer agrees to receive electronic notices from us, which will be sent by email to the account administrator(s) named for your Subscription. Notices are effective on the date on the return receipt or, for email, when sent. You are responsible for ensuring that the email address for the account administrator(s) named for your Subscription is accurate and current. Any email notice that we send to that email address will be effective when sent, whether or not Customer actually receives the email.

- b. **Assignment.** Customer may not assign this agreement either in whole or in part. Microsoft may transfer this agreement without Customer's consent, but only to one of Microsoft's Affiliates. Any prohibited assignment is void.
- c. **Severability.** If any part of this agreement is held unenforceable, the rest remains in full force and effect.
- d. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver.
- e. **No agency.** This agreement does not create an agency, partnership, or joint venture.

- f. **No third-party beneficiaries.** There are no third-party beneficiaries to this agreement.
- g. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance, subject to the terms of this agreement.
- h. **Microsoft as an independent contractor.** The parties are independent contractors. Customer and Microsoft each may develop products independently without using the other's confidential information.
- i. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products or services.
- j. **Entire agreement.** This agreement is the entire agreement concerning its subject matter and supersedes any prior or concurrent communications. In the case of a conflict between any documents in this agreement that is not expressly resolved in those documents, their terms will control in the following order of descending priority: (1) this agreement, (2) the Product Terms, (3) the Online Services Terms, and (4) any other documents in this agreement.
- k. **Survival.** All provisions survive termination of this agreement except that requiring performance only during the term of the agreement.
- l. **U.S. export jurisdiction.** Products are subject to U.S. export jurisdiction. Customer must comply with all applicable international and national laws, including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, and end-user, end-use and destination restrictions issued by U.S. and other governments related to Microsoft products, services, and technologies.
- m. **Force majeure.** Neither party will be liable for any failure in performance due to causes beyond that party's reasonable control (such as fire, explosion, power blackout, earthquake, flood, severe storms, strike, embargo, labor disputes, acts of civil or military authority, war, terrorism (including cyber terrorism), acts of God, acts or omissions of Internet traffic carriers, actions or omissions of regulatory or governmental bodies (including the passage of laws or regulations or other acts of government that impact the delivery of Online Services). This Section will not, however, apply to your payment obligations under this agreement.
- n. **Contracting authority.** If you are an individual accepting these terms on behalf of an entity, you represent that you have the legal authority to enter into this agreement on that entity's behalf.
- o. **Additional Terms Applicable when the Customer is a U.S. Federal Agency.**
 - i. No provisions of any shrink-wrap or any click-through agreement (or other similar form of agreement) that may be provided in conjunction with any Product(s) acquired under this agreement shall apply in place of, or serve to modify any provision of this agreement, even if a user or authorized officer of Customer purports to have affirmatively accepted such shrink-wrap or click-through provisions. For the avoid of doubt and without limiting the foregoing, in the event of a conflict between any such shrink-wrap or click-through provisions (irrespective of the products or services that such provisions attach to) and any term or condition of this agreement, then the relevant term or condition of this agreement shall govern and supersede the purchase of such

Product(s) to the extent of any such conflict. All acceptance of agreements and renewals shall be executed in writing.

- ii. If any document incorporated by reference into this agreement, including the Product Terms and Online Service Terms included and/or referenced or incorporated herein and/or therein, contains a provision (1) allowing for the automatic termination of your license rights or Online Services; (2) allowing for the automatic renewal of services and/or fees; (3) requiring the governing law to be anything other than Federal law; and/or (4) otherwise violates applicable Federal law, then, such terms shall not apply with respect to the Federal Government. If any document incorporated by reference into this agreement, including the Product Terms and Online Service Terms included and/or referenced or incorporated herein and/or therein contains an indemnification provision, such provision shall not apply as to the United States indemnifying Microsoft or any other party.

9. **Definitions.**

Any reference in this agreement to "day" will be a calendar day.

- a. "Acceptable Use Policy" is set forth in the Online Services Terms.
- b. "Affiliate" means any legal entity that a party owns, that owns a party, or that is under common ownership with a party. "Ownership" means, for purposes of this definition, control of more than a 50% interest in an entity. "Community" means the community consisting of one or more of the following: (1) a Government, (2) a Customer using eligible Government Community Cloud Services to provide solutions to a Government or a qualified member of the Community, or (3) a Customer with Customer Data that is subject to Government regulations for which the Customer determines, and Microsoft agrees, that the use of Government Community Cloud Services is appropriate to meet the Customer's regulatory requirements. Membership in the Community is ultimately at Microsoft's discretion, which may vary by Government Community Cloud Service.
- c. "Consumption Offering", "Commitment Offering", or "Limited Offering" describe categories of Subscription offers and are defined in Section 2.
- d. "Customer Data" is defined in the Online Services Terms.
- e. "End User" means any person you permit to access Customer Data hosted in the Online Services or otherwise use the Online Services.
- f. "Federal Agency" means a bureau, office, agency, department or other entity of the United States Government. "Fix" means a Product fix, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.
- g. "Government" means a Federal Agency, State/Local Entity, or Tribal Entity acting in its governmental capacity. "Government Community Cloud Services" means Microsoft Online Services that are provisioned in Microsoft's multi-tenant data centers for exclusive use by or for the Community and offered in accordance with the National Institute of Standards and Technology (NIST) Special Publication 800-145. Microsoft Online Services that are Government Community Cloud Services are designated as such in the Use Rights and Product Terms. "Government Contract" means the binding agreement between the

Contractor and Customer under which Customer orders Products from the Contractor and the Contractor binds Customer to the terms of this agreement.

- h. "Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site. "Non-Microsoft Product" is defined in the Online Services Terms.
- i. "Online Services" means any of the Microsoft-hosted online services subscribed to by Customer under this agreement, including Government Community Cloud Services, Microsoft Dynamics Online Services, Office 365 Services, Microsoft Azure Services, or Microsoft Intune Online Services.
- j. "Online Services Terms" means the additional terms that apply to Customer's use of Online Services published on the Licensing Site and updated from time to time.
- k. "Previews" means preview, beta, or other pre-release version or feature of the Online Services or Software offered by Microsoft to obtain customer feedback.
- l. "Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including Previews.
- m. "Product Terms" means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Licensing Site and is updated from time to time.
- n. "SLA" means Service Level Agreement, which specifies the minimum service level for the Online Services and is published on the Licensing Site.
- o. "State/Local Entity" means (1) any agency of a state or local government in the United States, or (2) any United States county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state's jurisdiction and geographic boundaries.
- p. "Software" means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be a part of an Online Service.
- q. "Subscription" means an enrollment for Online Services for a defined Term as established by your Reseller. "Term" means the duration of a Subscription (e.g., 30 days or 12 months).
- r. "Tribal Entity" means a federally recognized tribal entity performing tribal governmental functions and eligible for funding and services from the U.S. Department of Interior by virtue of its status as an Indian tribe.
- s. "Use Rights" means the use rights or terms of service for each Product published on the Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

EXHIBIT F – LEVINE ACT – CAMPAIGN CONTRIBUTION DISCLOSURE



**Levine Act –
Campaign Contribution Disclosure
(formerly referred to as Senate Bill 1439)**

The following is a list of items that are not covered by the Levine Act. A Campaign Contribution Disclosure Form will not be required for the following:

- Contracts that are competitively bid and awarded as required by law or County policy
- Contracts with labor unions regarding employee salaries and benefits
- Personal employment contracts
- Contracts under \$50,000
- Contracts where no party receives financial compensation
- Contracts between two or more public agencies
- The review or renewal of development agreements unless there is a material modification or amendment to the agreement
- The review or renewal of competitively bid contracts unless there is a material modification or amendment to the agreement that is worth more than 10% of the value of the contract or \$50,000, whichever is less
- Any modification or amendment to a matter listed above, except for competitively bid contracts.

DEFINITIONS

Actively supporting or opposing the matter: (a) Communicate directly with a member of the Board of Supervisors or other County elected officer [Sheriff/Coroner/Public Administrator, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] for the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter for the purpose of influencing the County's decision on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who, for compensation, is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidary relationship but meets one of the following criteria:

- (a) One business entity has a controlling ownership interest in the other business entity;

- (b) there is shared management and control between the entities; or
- (c) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), “shared management and control” can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsubsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

Contractors must respond to the questions on the following page. If a question does not apply respond N/A or Not Applicable.

1. Name of Contractor: NEC Corporation of America

2. Is the entity listed in Question No.1 a nonprofit organization under Internal Revenue Code section 501(c)(3)?

Yes ☐ If yes, skip Question Nos. 3-4 and go to Question No. 5

No ☒

3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision:

Chris Jackson, President and Chief Executive Officer

4. If the entity identified in Question No.1 is a corporation held by 35 or less shareholders, and not publicly traded ("closed corporation"), identify the major shareholder(s):

NEC Corporation 100%

5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above):

Company Name	Relationship
NEC Corporation	Parent company

6. Name of agent(s) of Contractor:

Company Name	Agent(s)	Date Agent Retained (if less than 12 months prior)
N/A		

7. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district.

Company Name	Subcontractor(s):	Principal and/or Agent(s):
N/A		

8. Name of any known individuals/companies who are not listed in Questions 1-7, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name
N/A	

9. Was a campaign contribution, of more than \$500, made to any member of the San Bernardino County Board of Supervisors or other County elected officer within the prior 12 months, by any of the individuals or entities listed in Question Nos. 1-8?

No ☒ If **no**, please skip Question No. 10.

Yes ☐ If **yes**, please continue to complete this form.

10. Name of Board of Supervisor Member or other County elected officer:

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Please add an additional sheet(s) to identify additional Board Members or other County elected officers to whom anyone listed made campaign contributions.

By signing the Agreement, NEC certifies that the statements made herein are true and correct. NEC understands that the individuals and entities listed in Question Nos. 1-8 are prohibited from making campaign contributions of more than \$500 to any member of the Board of Supervisors or other County elected officer while award of this Agreement is being considered and for 12 months after a final decision by the County.

EXHIBIT G – FBI CJIS SECURITY ADDENDUM

**FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM**

**Legal Authority for and Purpose and Genesis of the
Security Addendum**

Traditionally, law enforcement and other criminal justice agencies have been responsible for the confidentiality of their information. Accordingly, until mid-1999, the Code of Federal Regulations Title 28, Part 20, subpart C, and the National Crime Information Center (NCIC) policy paper approved December 6, 1982, required that the management and exchange of criminal justice information be performed by a criminal justice agency or, in certain circumstances, by a noncriminal justice agency under the management control of a criminal justice agency.

In light of the increasing desire of governmental agencies to contract with private entities to perform administration of criminal justice functions, the FBI sought and obtained approval from the United States Department of Justice (DOJ) to permit such privatization of traditional law enforcement functions under certain controlled circumstances. In the Federal Register of May 10, 1999, the FBI published a Notice of Proposed Rulemaking, announcing as follows:

1. Access to CHRI [Criminal History Record Information] and Related Information, Subject to Appropriate Controls, by a Private Contractor Pursuant to a Specific Agreement with an Authorized Governmental Agency To Perform an Administration of Criminal Justice Function (Privatization). Section 534 of title 28 of the United States Code authorizes the Attorney General to exchange identification, criminal identification, crime, and other records for the official use of authorized officials of the federal government, the states, cities, and penal and other institutions. This statute also provides, however, that such exchanges are subject to cancellation if dissemination is made outside the receiving departments or related agencies. Agencies authorized access to CHRI traditionally have been hesitant to disclose that information, even in furtherance of authorized criminal justice functions, to anyone other than actual agency employees lest such disclosure be viewed as unauthorized. In recent years, however, governmental agencies seeking greater efficiency and economy have become increasingly interested in obtaining support services for the administration of criminal justice from the private sector. With the concurrence of the FBI's Criminal Justice Information Services (CJIS) Advisory Policy Board, the DOJ has concluded that disclosures to private persons and entities providing support services for criminal justice agencies may, when subject to appropriate controls, properly be viewed as permissible disclosures for purposes of compliance with 28 U.S.C. 534.

We are therefore proposing to revise 28 CFR 20.33(a)(7) to provide express authority for such arrangements. The proposed authority is similar to the authority that already exists in 28 CFR 20.21(b)(3) for state and local CHRI systems. Provision of CHRI under this authority would only be permitted pursuant to a specific agreement with an authorized governmental agency for the purpose of providing services for the administration of criminal justice. The agreement would be required to incorporate a security addendum approved by the Director of the FBI

(acting for the Attorney General). The security addendum would specifically authorize access to CHRI, limit the use of the information to the specific purposes for which it is being provided, ensure the security and confidentiality of the information consistent with applicable laws and regulations, provide for sanctions, and contain such other provisions as the Director of the FBI (acting for the Attorney General) may require. The security addendum, buttressed by ongoing audit programs of both the FBI and the sponsoring governmental agency, will provide an appropriate balance between the benefits of privatization, protection of individual privacy interests, and preservation of the security of the FBI's CHRI systems.

The FBI will develop a security addendum to be made available to interested governmental agencies. We anticipate that the security addendum will include physical and personnel security constraints historically required by NCIC security practices and other programmatic requirements, together with personal integrity and electronic security provisions comparable to those in NCIC User Agreements between the FBI and criminal justice agencies, and in existing Management Control Agreements between criminal justice agencies and noncriminal justice governmental entities. The security addendum will make clear that access to CHRI will be limited to those officers and employees of the private contractor or its subcontractor who require the information to properly perform services for the sponsoring governmental agency, and that the service provider may not access, modify, use, or disseminate such information for inconsistent or unauthorized purposes.

Consistent with such intent, Title 28 of the Code of Federal Regulations (C.F.R.) was amended to read:

§ 20.33 Dissemination of criminal history record information.

- a) Criminal history record information contained in the Interstate Identification Index (III) System and the Fingerprint Identification Records System (FIRS) may be made available:
 - 1) To criminal justice agencies for criminal justice purposes, which purposes include the screening of employees or applicants for employment hired by criminal justice agencies.
 - 2) To noncriminal justice governmental agencies performing criminal justice dispatching functions or data processing/information services for criminal justice agencies; and
 - 3) To private contractors pursuant to a specific agreement with an agency identified in paragraphs (a)(1) or (a)(6) of this section and for the purpose of providing services for the administration of criminal justice pursuant to that agreement. The agreement must incorporate a security addendum approved by the Attorney General of the United States, which shall specifically authorize access to criminal history record information, limit the use of the information to the purposes for which it is provided, ensure the security and confidentiality of the information consistent with these regulations, provide for sanctions, and contain such other provisions as the Attorney General may require. The power and authority of the Attorney General hereunder shall be exercised by the FBI Director (or the Director's designee).

This Security Addendum, appended to and incorporated by reference in a government-private sector contract entered into for such purpose, is intended to insure that the benefits of privatization

are not attained with any accompanying degradation in the security of the national system of criminal records accessed by the contracting private party. This Security Addendum addresses both concerns for personal integrity and electronic security which have been addressed in previously executed user agreements and management control agreements.

A government agency may privatize functions traditionally performed by criminal justice agencies (or noncriminal justice agencies acting under a management control agreement), subject to the terms of this Security Addendum. If privatized, access by a private contractor's personnel to NCIC data and other CJIS information is restricted to only that necessary to perform the privatized tasks consistent with the government agency's function and the focus of the contract. If privatized the contractor may not access, modify, use or disseminate such data in any manner not expressly authorized by the government agency in consultation with the FBI.

**FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM**

The goal of this document is to augment the CJIS Security Policy to ensure adequate security is provided for criminal justice systems while (1) under the control or management of a private entity or (2) connectivity to FBI CJIS Systems has been provided to a private entity (contractor). Adequate security is defined in Office of Management and Budget Circular A- 130 as “security commensurate with the risk and magnitude of harm resulting from the loss, misuse, or unauthorized access to or modification of information.”

The intent of this Security Addendum is to require that the Contractor maintain a security program consistent with federal and state laws, regulations, and standards (including the CJIS Security Policy in effect when the contract is executed), as well as with policies and standards established by the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB).

This Security Addendum identifies the duties and responsibilities with respect to the installation and maintenance of adequate internal controls within the contractual relationship so that the security and integrity of the FBI's information resources are not compromised. The security program shall include consideration of personnel security, site security, system security, and data security, and technical security.

The provisions of this Security Addendum apply to all personnel, systems, networks and support facilities supporting and/or acting on behalf of the government agency.

1.00 Definitions

- 1.01 Contracting Government Agency (CGA) - the government agency, whether a Criminal Justice Agency or a Noncriminal Justice Agency, which enters into an agreement with a private contractor subject to this Security Addendum.
- 1.02 Contractor - a private business, organization or individual which has entered into an agreement for the administration of criminal justice with a Criminal Justice Agency or a Noncriminal Justice Agency.

2.00 Responsibilities of the Contracting Government Agency.

- 2.01 The CGA will ensure that each Contractor employee receives a copy of the Security Addendum and the CJIS Security Policy and executes an acknowledgment of such receipt and the contents of the Security Addendum. The signed acknowledgments shall remain in the possession of the CGA and available for audit purposes. The acknowledgement may be signed by hand or via digital signature (see glossary for definition of digital signature).

3.00 Responsibilities of the Contractor.

- 3.01 The Contractor will maintain a security program consistent with federal and state laws, regulations, and standards (including the CJIS Security Policy in effect when the contract is executed and all subsequent versions), as well as with policies and standards

established by the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB).

4.00 Security Violations.

- 4.01 The CGA must report security violations to the CJIS Systems Officer (CSO) and the Director, FBI, along with indications of actions taken by the CGA and Contractor.
- 4.02 Security violations can justify termination of the appended agreement.
- 4.03 Upon notification, the FBI reserves the right to:
 - a. Investigate or decline to investigate any report of unauthorized use;
 - b. Suspend or terminate access and services, including telecommunications links. The FBI will provide the CSO with timely written notice of the suspension. Access and services will be reinstated only after satisfactory assurances have been provided to the FBI by the CGA and Contractor. Upon termination, the Contractor's records containing CHRI must be deleted or returned to the CGA.

5.00 Audit

- 5.01 The FBI is authorized to perform a final audit of the Contractor's systems after termination of the Security Addendum.

6.00 Scope and Authority

- 6.01 This Security Addendum does not confer, grant, or authorize any rights, privileges, or obligations on any persons other than the Contractor, CGA, CJA (where applicable), CSA, and FBI.
- 6.02 The following documents are incorporated by reference and made part of this agreement: (1) the Security Addendum; (2) the NCIC 2000 Operating Manual; (3) the CJIS Security Policy; and (4) Title 28, Code of Federal Regulations, Part 20. The parties are also subject to applicable federal and state laws and regulations.
- 6.03 The terms set forth in this document do not constitute the sole understanding by and between the parties hereto; rather they augment the provisions of the CJIS Security Policy to provide a minimum basis for the security of the system and contained information and it is understood that there may be terms and conditions of the appended Agreement which impose more stringent requirements upon the Contractor.
- 6.04 This Security Addendum may only be modified by the FBI, and may not be modified by the parties to the appended Agreement without the consent of the FBI.
- 6.05 All notices and correspondence shall be forwarded by First Class mail to:

Information Security Officer
Criminal Justice Information Services Division, FBI
1000 Custer Hollow Road
Clarksburg, West Virginia 26306

**FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION
SERVICES SECURITY ADDENDUM**

CERTIFICATION

I hereby certify that I am familiar with the contents of (1) the Security Addendum, including its legal authority and purpose; (2) the NCIC Operating Manual; (3) the CJIS Security Policy; and (4) Title 28, Code of Federal Regulations, Part 20, and agree to be bound by their provisions.

I recognize that criminal history record information and related data, by its very nature, is sensitive and has potential for great harm if misused. I acknowledge that access to criminal history record information and related data is therefore limited to the purpose(s) for which a government agency has entered into the contract incorporating this Security Addendum. I understand that misuse of the system by, among other things: accessing it without authorization; accessing it by exceeding authorization; accessing it for an improper purpose; using, disseminating or re-disseminating information received as a result of this contract for a purpose other than that envisioned by the contract, may subject me to administrative and criminal penalties. I understand that accessing the system for an appropriate purpose and then using, disseminating or re-disseminating the information received for another purpose other than execution of the contract also constitutes misuse. I further understand that the occurrence of misuse does not depend upon whether or not I receive additional compensation for such authorized activity. Such exposure for misuse includes, but is not limited to, suspension or loss of employment and prosecution for state and federal crimes.

Printed Name/Signature of Contractor Employee

Date

Printed Name/Signature of Contractor Representative

Date

Organization and Title of Contractor Representative

Exhibit A

STATEMENT OF WORK

Integra-ID Cloud Upgrade

For the San Bernardino and Riverside Counties AFIS System

This Statement of Work ("SOW") is governed by and made part of the Managed Hosting Services Agreement (the "Agreement") between NEC Corporation of America, a Nevada Corporation, having its principal place of business at 5205 N. O'Connor Blvd. Suite 400, Irving, TX 75039 ("NEC"), and **San Bernardino County** having a principal place of business at 655 East Third Street, San Bernardino, CA 92415 ("Client"), and is effective as of the date last signed below ("Effective Date").

This SOW defines the Equipment and Services that NEC will deliver to, or perform for Client (the "Project") in exchange for a fixed price.

Agreed and Accepted:

San Bernardino County

By: _____

Name: Dawn Rowe

Title: Chair, Board of Supervisors

Date: _____

NEC Corporation of America

By: _____

Name: Eugene le Roux
SVP Digital Government & Aviation,
NECAM Advanced Recognition
Systems

Date: _____

Proprietary Notice



NEC Corporation of America

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The NEC product(s) discussed in this document are warranted in accordance with the terms of the Warranty Statement accompanying each product or a separate written warranty agreement that may be applicable. However, actual performance of each such product is dependent upon factors such as system configuration, customer data, and operator control. Since implementation by customers of each product may vary, the suitability of specific product configurations and applications must be determined by the customer and is not warranted by NEC.

To allow for design and specification improvements, the information in this document, and the products and services described in such information, are subject to change at any time, without notice. Reproduction of this document or portions thereof without prior written approval of NEC is prohibited.

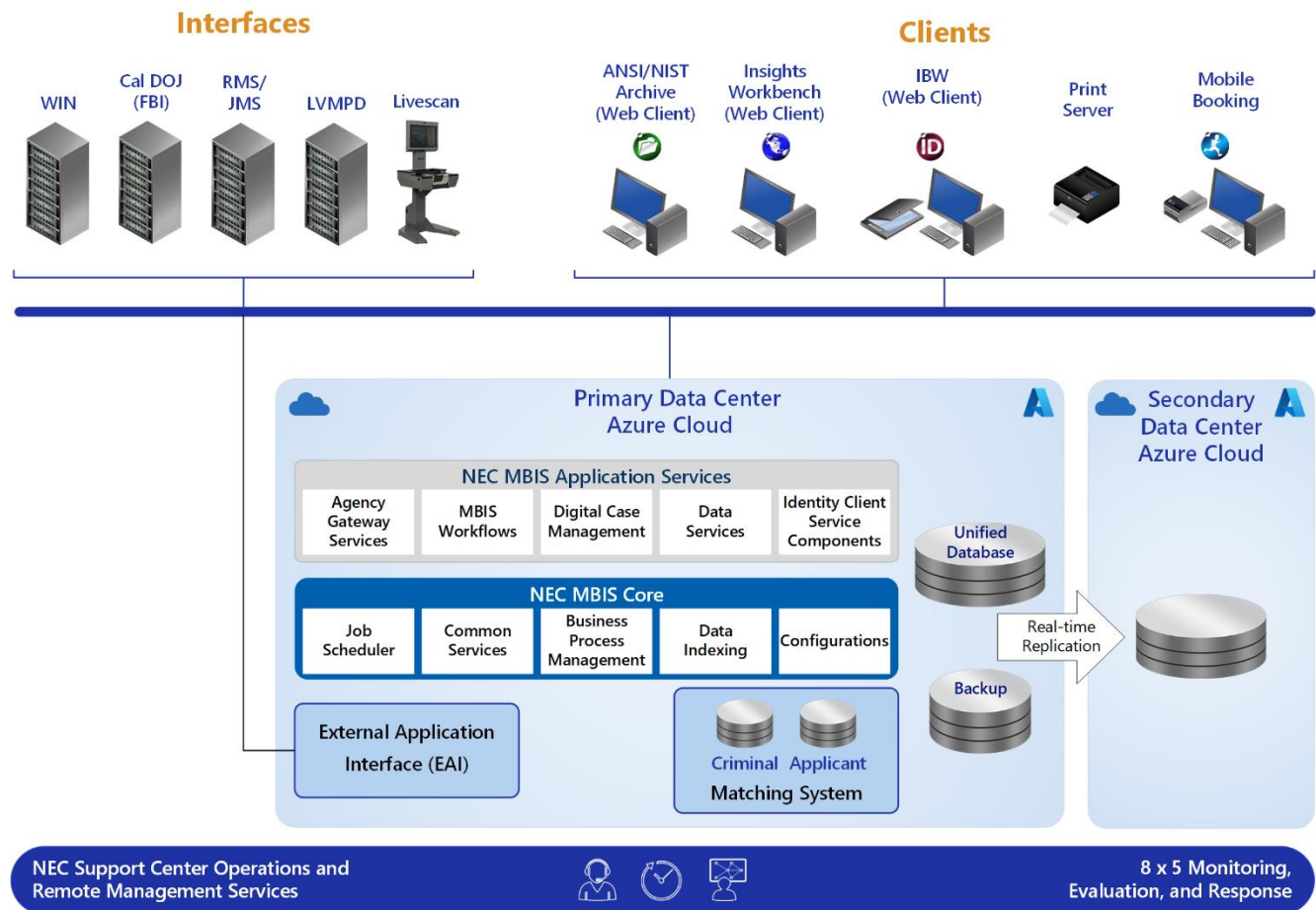
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1 Project Overview

NEC will upgrade and migrate San Bernadino / Riverside Counties Sheriff's Departments ("SBRV") existing MBIS platform to the Microsoft Azure Cloud. As part of this effort, NEC will upgrade the system to latest Integra-ID version. The Integra-ID architecture focuses on the integration of proven cloud infrastructure that can fully support all of SBRV's identification requirements.

Figure 1 provides a high-level diagram illustrating the Integra-ID system configuration.

Figure 1: System Overview



1.1 Components

Table 1 describes the NEC-provided base system components of the solution.

Table 1: Components

System Components	Description
MBIS Core	The components support the core operations of the MBIS including common services (auditing, logging, job scheduling), data management (persistence, indexing), configuration support and management, as well as managing and executing all system workflows. The result is managed users, administration access, work in progress queues, as well as interfaces to all external systems.
Unified Database (UDB)	Via an MS SQL Server/Oracle/Azure SQL (cloud deployment only) Relational Database Management System (RDBMS), the UDB manages all access to the system and stores MBIS images, descriptive information, feature data, necessary audit trail data, report data, user profile data, and, for the NIST Archive metadata search component, the original NIST records and associated metadata.
Matching System	NEC's Matching System provides integrated services for biometric (fingerprint, palmprint, face, and iris) template-based matching. A COTS, scalable software matching solution, the matcher uses a component-based architecture, providing extraction, identification, verification, and fusion services using the industry's most accurate and proven algorithms.
Archive (Web Client)	NEC's Archive application provides quick access to all biometric records and associated documents stored in the UDB Archive repository. The application includes the ability to search, retrieve, view, print, and manage ANSI/NIST-formatted biometric records for identification and investigative processing.
Insights Workbench (Web Client)	NEC's Insights Workbench application provides a set of applications available from a secured web browser central location for system administration, monitoring, and reporting of all Integra-ID management functions, such as user management, transaction/workflow management, system configuration and settings, and reporting.
Integrated Biometric Workstation (IBW) (Web Client)	IBW is a series of web-based tools that serves as the user interface to Integra-ID. It provides all available user functions, including all tenprint, latent, LCMS, palmprint, and face recognition (optional add-on component) functionality. User profile and workstation purpose dictate available functions.
Card Print Server	NEC's Card Print Server uses a template-based engine that can fully render the card lines and labels for both sides of the card on blank card stock.

1.2 Design Parameters

NEC will provide the following baseline design parameters:

Table 2: Database Parameters

Database	Conversion	Design	Remarks
Minutia/Image Database (Searchable)			
Rolled Database – Tenprint Search (RDB-T)	2,030,000	2,630,000	
Slap Database – Tenprint Search (SDB-T)	2,030,000	2,630,000	
Rolled Database – Latent Search (RDB-L)	5,650,000	6,490,000	
Slap Database – Latent Search (SDB-L)	5,650,000	6,490,000	
Palmprint Database – Full Palms (PDB)	3,120,000	3,840,000	
Latent Fingerprint Database (LDB)	20,000	26,000	
Latent Palmprint Database (LDB-P)	10,000	13,150	
Mugshot Repository	1,808,000	2,228,000	
NIST Archive			
Type-1, -2, and -4 fingerprints (500 ppi)	5,650,000	6,490,000	
Type-10 photographs	1,808,000	2,228,000	
Type-15 palmprints (500 ppi)	3,120,000	3,840,000	
Type-17 iris	0	250,000	

Table 3: Transaction Volumes

Transaction Volumes	Daily	Peak	Avg. Response Time (Seconds)	OP. Hours	Remarks
Tenprint Submission	900	300	120	24	
Tenprint Inquiry (TI or TP:TP)	900	300	120	24	
TPIS Searches 1:N	2,000	350	30	24	
Latent Inquiry (LI or LT:TP) Fusion (RDB-L and SDB-L)	300	70	900	24	

Transaction Volumes	Daily	Peak	Avg. Response Time (Seconds)	OP. Hours	Remarks
Tenprint-to-Latent Inquiry (TLI or TP:UL)	900	300	900	24	
Latent-to-Latent Inquiry (LLI or LT:UL)	300	70	900	24	
Palmprint Submission	900	300	900		
Palmprint-to-Latent Palmprint Inquiry (TLI-P or PP:ULP)	900	300	900	24	
Latent Palmprint-to-Full Palmprint Inquiry (LI-P or LP:PP)	135	32	900	24	
Latent Palmprint-to-Latent Palmprint (LLI-P or LP:ULP)	135	32	900	24	

Table 4: Project Deliverables and Services

Device	Type	Total Quantity	Quantity for Each Agency
Integrated Biometric Workstation (IBW)	Full Function (Tenprint, Latent, Verification, and Archive)	47	San Bernardino County – 27 (software licenses provided by NEC) Riverside County – 20 (software licenses provided by NEC) PC's monitors, and keyboards will be provided by SBRV agencies.
Flatbed Scanner	FBI Appendix F certified Scanner	36	San Bernardino County – 18 (provided by NEC) Riverside County – 18
Printer	FBI Appendix F certified Printer	2	San Bernardino County – 1 (provided by NEC) Riverside County – 1 (provided by NEC)

1.3 Workflow Overview

Figure 2 provides an overview of the tenprint workflow. This workflow is implemented on the existing system.

Figure 2: Tenprint Workflow Overview

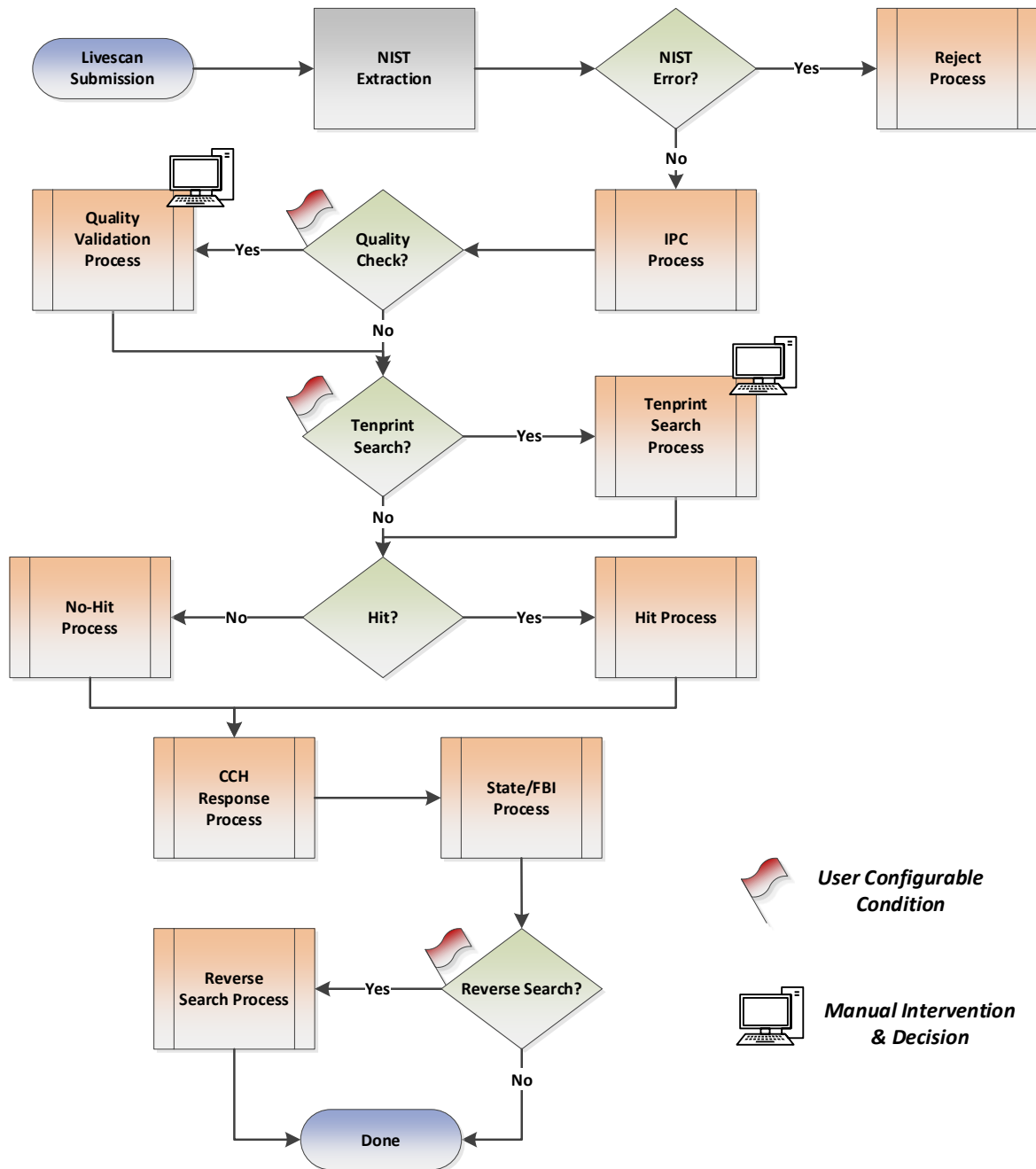


Figure 3 provides an overview of the latent workflow.

Figure 3: Latent Workflow Overview

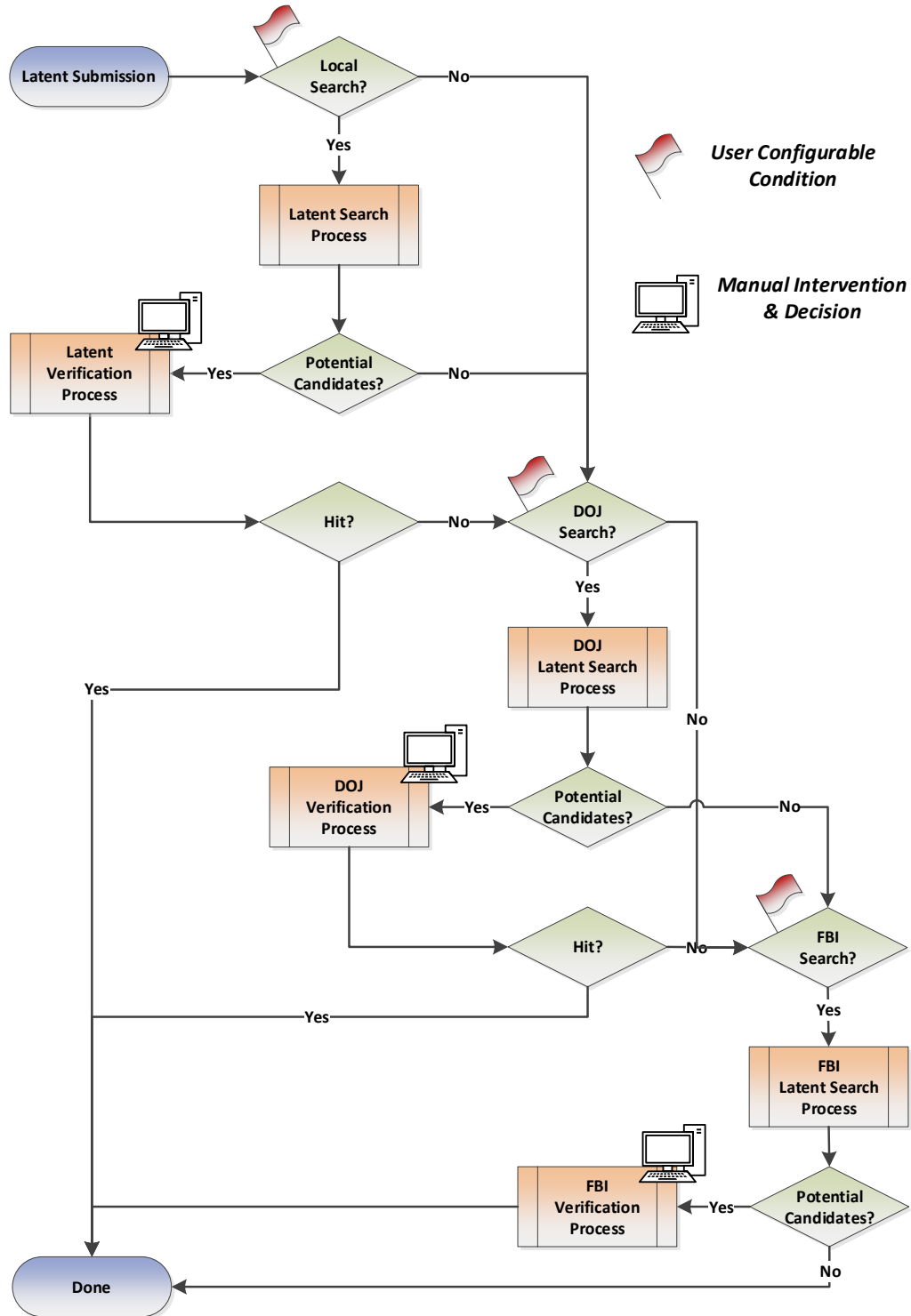
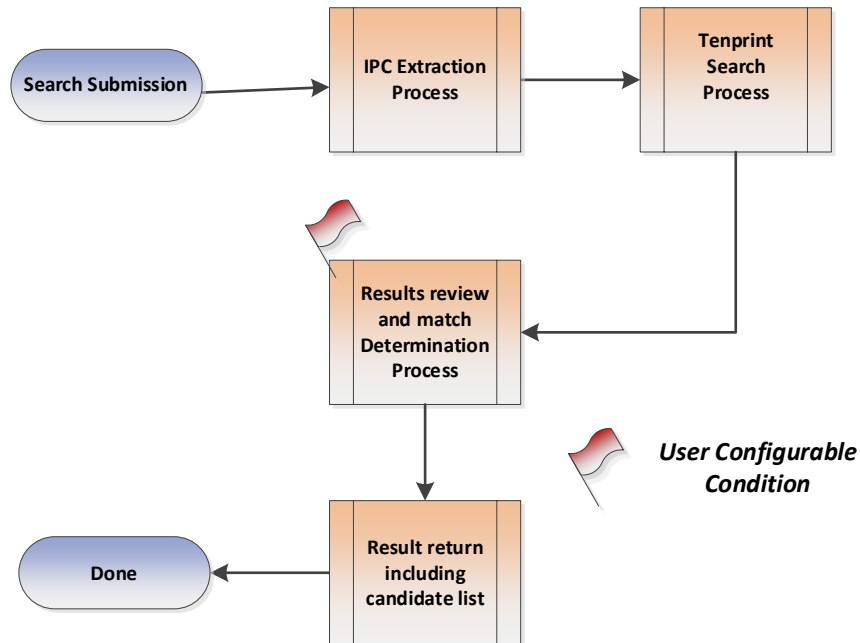


Figure 4 provides an overview of the Fast/Mobile ID workflow.

Figure 4: Fast/Mobile ID Workflow Overview



1.4 Project Deliverables and Services

NEC's is providing a turnkey solution designed to meet San Bernardino County's needs and specifications. Table 5 is an overview of the project deliverables and services NEC is providing.

Table 5: Project Deliverables and Services

Scope	Deliverables
Integra-ID	<ul style="list-style-type: none"> Microsoft Azure hosted services for <ul style="list-style-type: none"> Transaction Controller Unified Database (with a design capacity as described in Section 1.2 NEC Matching subsystem license to meet requirements stated in Section 1.2 (47 IBW workstation (Tenprint, Latent, Verification) application licenses (36) Flatbed Scanners (2) FBI Certified Printers (card printers) Administrative Workbench licensing including system and user administration and Integra-ID's standard reports package as defined in Section 1.4.1.
Development of Interfaces	<ul style="list-style-type: none"> Livescan interface CA DOJ AFIS Interface San Bernardino CJIS Interface

Scope	Deliverables
	<ul style="list-style-type: none"> Riverside CJIS Interface Riverside Mideo Mobile/Fast ID interface Mugshot Interface TRG for CA DOJ and FBI latent Interoperability WIN (with MOU) LVMPD (with MOU)
Workflow Design and Configuration	<ul style="list-style-type: none"> One (1) Tenprint workflow as defined in Section 1.3 One (1) Latent Workflow as defined in Section 1.3 One (1) Fast/Mobile Identification workflow
Implementation Services	Defined in Section 1.4.1
Maintenance Services	<ul style="list-style-type: none"> 24 x 7 coverage for (6) years after system go-live VPN/remote support to provide first- and second-level support as required All reference to hardware / software maintenance and spare parts apply only to NEC supplied components.
Technology Refresh	<ul style="list-style-type: none"> NEC will ensure Client's hardware and software components remain up to date throughout the life of the contract. NEC will create technology refresh plan that will outline the components and schedule for the NEC-provided hardware and software replacement. Upgrades to Integra-ID platform and algorithms software, per NEC product roadmap, provided at no additional fee. Any professional services required for the upgrade (such as image re-templating) will be handled as a change order request. Microsoft will provide cloud infrastructure refresh per the Azure Government cloud platform roadmap.

At any time before Acceptance, NEC reserves the right to add, delete, and/or substitute items of equipment and software ("Substitutions"), provided that such substitution will not adversely affect the functionality and performance of the deliverables.

1.4.1 Supplied Reports

The system includes a set of standard reports commonly needed by law enforcement agencies' system administrators and management-level staff:

- **Administration Reports**
 - User Logon/Logoff report
 - User Activity report
 - Transaction History Audit report
 - Stuck Job report
 - Abort/Rejected Transaction report
 - Tenprint Hit/No-Hit report
 - Tenprint Hit Distribution report

- DB Count report
- DB Quality Statistics report
- Tenprint Accumulated Job Log report
- Livescan Quality report
- Latent Accumulated Job Log report
- Latent Hit/No-Hit report
- Consolidation report
- Search Response Time Statistics report
- **FBI Reports**
 - FBI Send and Response Statistics report
 - FBI Response Time Statistics report
 - FBI Differential report
- **Enrollment Reports**
 - Enrollment Summary report
 - Enrollment Detail report
- **Archive Reports**
 - Archive Activity report
 - Archive Statistics report
 - Archive Audit report
 - Archive User Access report
- **Latent Reports**
 - Latent Image report
 - Latent Cast report
 - Hit Statistics by Candidate Position report
 - Latent Case Hit report
 - Latent Case Statistics report
 - Hit Transaction Summary report

Custom reports will be handled as a change order request.

1.4.2 Project Management

The NEC Project Management Organization (PMO) and its certified Project Management Professionals have defined a project lifecycle methodology that closely aligns to the current Project Management Body of Knowledge (PMBOK) standards from the Project Management Institute (PMI). The NEC Project Manager will use best practices that are agile and measurable to ensure a quality implementation and provide a comprehensive interface with the Client throughout the Project.

The following section summarizes the standard implementation activities for each of the major project phases.

1.4.2.1 Planning

- Conduct Initial Kickoff Meeting (within 10 days after full execution of Contract/Sow)
- Update Project Management Plan (PMP) and Integrated Master Schedule (IMS) and submit to Client for review (within 10 days after full execution of Contract/Sow)
- Update PMP and IMS per Client input (within 10 days after full execution of Contract/Sow)
- Obtain Client approval

1.4.2.2 System Requirements

- Analyze and document Client requirements in Core Configuration requirements Document (CCRD) and Customer Specific Configuration Requirements Document (CSCRD)

- Conduct Site Survey
- Incorporate Survey Results into CCRD and CSCRD
- Prepare Agenda/Presentation Materials for Business Requirement Review (BRR)
- Submit CCRD and CSCRD and Meeting Documentation for Client's review
- Conduct BRR and update CCRD and CSCRD based on BRR
- Resubmit CCRD and CSCRD and obtain Client approval

1.4.2.3 System Design

- Create and submit the following design documents for Client's review
 - Interface Requirements Document (IRD)
 - Equipment List
 - Installation Plan
 - Training Plan
- Prepare Agenda/Presentation Materials for System Design Review (SDR)
- Submit design documents and Meeting Documents to Clients for review
- Conduct SDR and update design documents based on SDR
- Re-submit design documents and obtain Client approval

1.4.2.4 System Configuration

- Create conversion tool
- Create database schema and script development for conversion
- Configure workflows
- Configure the following interfaces:
 - Livescan interface
 - CA DOJ AFIS Interface
 - San Bernardino CJIS Interface
 - Riverside CJIS Interface
 - Riverside Mideo
 - Mobile/Fast ID interface
 - Mugshot Interface
 - TRG for CA DOJ and FBI latent Interoperability
 - WIN (with MOU)
 - LVMPD (with MOU)Configure and customize the Integra-ID system components
- Configure and customize the IBW components

- Configure and customize the Reporting components

1.4.2.5 Data Migration

- Analyze the existing system to identify various data categories and different types of data (NIST types, Image types etc.)
- Collect samples of different datasets
- Identify the New Tools / Tool modifications needed
- Develop/Modify Data Migration Tools
- Test the Data Migration Tools with sample data
- Prepare the Data Migration environment/configure the tools
- Process various categories of data
- Validate migrated data
- Analyze the exceptions and apply fixes
- Process Incremental Catchups
- Final reconciliation and reporting

1.4.2.6 Functionality Demonstration

- NEC will demonstrate new functionality to SBRV as part of our iterative development process.
- Demonstrations allow SBRV to provide timely feedback that can be incorporated into the sprint review.
- Receiving SBRV input as part of our iterative development process will ensure solution aligns with SBRV's expectations.
- Demonstrations will be schedule by Project Manager throughout development period as functionality becomes available for review.
- NEC will provide training and/or online videos so SBRV will have familiarity with core functionality.
- SBRV will be granted access to a development environment and have the ability to evaluate new functionality on their own as functionality becomes available.

1.4.2.7 Production Environment Deployment and Testing

- Procure materials
- Receive hardware and software
- Deploy cloud system configuration
- Setup and configure production hardware
- Test production system

1.4.2.8 Installation

- Ship onsite components to SBRV's facilities

- Perform hardware installation

1.4.2.9 UAT Readiness Check and UAT Access

- NEC will conduct a User Acceptance Test (UAT) Readiness Check
- NEC will validate that the Production Environment is fully deployed and ready for SBRV User Acceptance Testing (UAT) including:
 - Ability to process transactions, including submitting and receiving to 3rd party applications (*list interfaces such as CCH, Livescan, FBI, state, etc.*)
- SBRV will support NEC's Readiness Check, and ensure NEC has access to third party applications, network connectivity, and/or other infrastructure per NEC's specifications.
- *Upon completion of UAT Readiness Check, NEC will provide customer logins and access to the UAT Environment*

1.4.2.10 Training and Documentation

- Conduct Tenprint training
- Conduct Latent training
- Conduct training for managers and supervisors
- Integrated online help user documentation

1.4.2.11 Customer UAT

- Upon completion of UAT Readiness Check, SBRV will be granted access to the system.
- SBRV will then have 10 business days to conduct their UAT and report any deficiencies.
- Upon completion of SBRV UAT period, system will be ready for Switchover.

1.4.2.12 Conduct Switchover

- Commission and test system
- System switches over to production

1.4.2.13 Administrative Closing

- Transition to Operations
- Administratively close project

1.5 Client Responsibilities

- Provide wide area network (WAN) and local area network (LAN) infrastructure for the Integra-ID system, as well as secure connection to Microsoft Azure.
- CJIS Security compliance including:
 - Advanced authentication

- Encryption of Criminal Justice Information (CJI) on the mobile device
- Encryption of CJI in communication
- Network TCP/IP address and any network enhancements to provide access to Integra-ID
- Integration testing of all existing livescan systems that submit to Client, if applicable
- Provide system(s) interface specifications, external modifications, and testing with the Integra-ID interface
- In the event the project is delayed (over 1-month) and the delay was caused by Client, Client will reimburse NEC for any additional services, including Azure cloud hosting fees.
- Overall pricing may be subject to change if the project is significantly delayed (over 6-months).
- SBRV is responsible for the management and maintenance of any non-hosted components according to their respective manufacturer specifications, including antivirus and OS maintenance and updates

2 Definitions

Capitalized terms not otherwise defined in this SOW or the Agreement have the following meanings:

Table 6: Components

Term	Definition
Deliverables	The Equipment and Services plus any other tangible items (e.g., reports, project plans, checklists, etc.) to be provided to Client as specified in this SOW.
Equipment	Both hardware products and software sold, licensed, or installed as specified in this SOW.
Go-live	System is ready for operational use and customer is granted access to production system.
Project Completion	That point in the Project when NEC has completed the Services and provided the Deliverables to Client.
Services	The installation, maintenance, professional, or other related Services as specified in this SOW.
Software	The machine-readable object code software programs, if any, licensed by NEC or its suppliers as specified in this SOW.

3 Project Schedule

NEC shall confer with Client within 10 days after the Effective Date of this SOW, to define an Integrated Master Schedule. NEC shall provide client the Integrated Master Schedule within 15 days after initial kickoff meeting and will include, but will not be limited to, the Project commencement date, any significant Project milestones, and the anticipated Project Completion date. Project completion date shall be no more than 365 days after the Contract/SOW effective date.

4 Price and Payment

The total price for the Project is \$3,287,378 (the "Project Price") for the deliverables and services described in this SOW. If Client is exempt from sales taxes, Client shall provide NEC with a valid sales tax exemption certificate prior to the date of invoice.

NEC will invoice Client for the Project Price in accordance with the billing schedule below. Unless otherwise expressly agreed to by NEC in writing, payments are due within sixty (60) days from the date of receipt of invoice.

Table 1: Billing Schedule

Milestone	Payment Amount
Upon Execution of the SOW (30%)	\$986,213.40
Upon Completion of System Requirements (30%)	\$986,213.40
Upon System Go-Live (30%)	\$986,213.40
Upon System Acceptance (10%)	\$328,737.80
Total	\$3,287,378.00

The price for the annual maintenance and Azure hosting, as described in this SOW, is listed by year in the table below (the "Annual Maintenance & Hosting Price"). If Client is exempt from sales taxes, Client shall provide NEC with a valid sales tax exemption certificate prior to the date of invoice.

NEC will invoice Client for the Annual Maintenance & Hosting Price in accordance with the billing schedule below. Unless otherwise expressly agreed to by NEC in writing, payments are due within sixty (60) days from the date of receipt of invoice. The Year 1 Annual Maintenance & Hosting fee is due upon at system acceptance.

Table 2: Maintenance Schedule

Year	Payment Amount
Year 1 Maintenance, Support and Azure Hosting	\$434,000
Year 2 Maintenance, Support and Azure Hosting	\$447,020
Year 3 Maintenance, Support and Azure Hosting	\$460,431
Year 4 Maintenance, Support and Azure Hosting	\$474,244
Year 5 Maintenance, Support and Azure Hosting	\$488,471
Year 6 Maintenance, Support and Azure Hosting	\$503,125
Total Contract Price	\$6,094,669

Please note any annual maintenance fees for the existing legacy AFIS/MBIS system will be billed separately.

SBRV is responsible for legacy system maintenance fees until legacy system is decommissioned. NEC may be required to increase the legacy maintenance fees to adjust for increased market costs.

If the legacy AFIS/MBIS is deactivated prior to then end annual maintenance period of the legacy system, NEC will provide a refund or credit for the for the unused portion of the maintenance period.

5 Complete Contract

This SOW, along with the Agreement, is the complete agreement between the parties concerning the Project and supersedes any prior oral or written communications between the parties with regard to the subject matter contained herein. The provisions of this SOW govern only the subject matter hereof and shall not apply to any other subject matter covered by the Agreement.

6 Project Completion Checklist

A draft version of NEC's Project Completion Checklist has been attached as Schedule A.

Schedule A – Project Completion Checklist

When NEC has achieved Project Completion, NEC will submit this checklist to Client. If Client fails to provide a Punchlist or sign and return this checklist to NEC within ten (10) days of receipt, the Project will be complete and NEC will be entitled to invoice Client in accordance with the payment schedule in Section 4 of the SOW.

Implementation Tasks/Deliverables

Date

- | | |
|--|-------|
| 1. Upon SOW Execution | _____ |
| 2. Upon Completion of System Requirments | _____ |
| 3. Upon System Go-live | _____ |
| 4. Upon System Acceptance | _____ |

This is to confirm that as of __/__/20__, NEC has completed Services and provided the Deliverables under the Integra-ID Cloud Upgrade SOW effective __/__/20__.

Submitted By:

NEC Corporation of America

By: _____
Name: _____
Title: _____
Date: _____

San Bernardino County

By: _____
Name: _____
Title: _____
Date: _____