Genetec Software License Agreement

This document (the "**Agreement**") constitutes a binding legal agreement between Genetec Inc. ("**Genetec**") and San Bernardino County, a political subdivision organized and existing under the laws and constitution of the State of California, ("**Licensee**") and defines the terms and conditions under which Genetec allows Licensee to download, install and use any Genetec Software (as defined below). Please read it carefully as it contains important information such as warranty disclaimers and limitations of liability.

This Agreement is effective upon execution by authorized representatives of both parties ("Effective Date"). .

1. Scope and Definitions

a. Scope. This Agreement applies to access and use of all Software by Licensee (including its Affiliates and their respective authorized users). If any additional terms apply to any given Software, they will be provided to Licensee in the form of a Software Appendix at the time of procurement of the license to such Software.

b. Definitions. For the purpose of this Agreement, the term (i) "**Genetec Affiliate**" means, any entity that, either directly or through one or more intermediary entities, controls, is controlled by, or is under common control with Genetec, where 'control' refers to the ownership of more than fifty percent (50%) of the voting equity of such entity or to the right to appoint the majority directors to the board of directors of such entity. "**Licensee Affiliate**" means, a local government agency, department, Board-governed special district, or other local governmental body or corporation, including applicable K-12 schools and community colleges, where Licensee is authorized and empowered to expend public funds for such entity located within San Bernardino County's applicable jurisdictional and geographical boundaries.; (ii) "**Board**" means the San Bernardino County Board of Supervisors; (iii) "**Documentation**" means user manuals and any other documentation pertaining to Software or Genetec Advantage (as defined in section 2.a below) as made available by Genetec in relation to such Software; (iv) "**Malicious Code**" means any software, electronic, mechanical or other means, device or function (such as, a backdoor, trapdoor, virus, malware, spyware or trojan horse) designed to allow Genetec or a third party to spy or gain unauthorized access to Licensee Data or Licensee systems; provided that 'Malicious Code' excludes any function of Software intended to enforce license-specific limitations (such as for trial or subscription-based Software licenses) and other similar self-help mechanisms; (v) "**Party**" means either

Genetec or Licensee, and "**Parties**" means both Genetec and Licensee; (vi) "**Software**" means any software application conceived, developed or licensed by Genetec, in whatever form, and that is licensed to Licensee under this Agreement, including all updates, upgrades and other modifications thereto that Genetec may make available to Licensee from time to time.

2. License Terms and Restrictions

a. Grant of License. Subject to the payment of the relevant licensing fees and Licensee's compliance with the terms and conditions of this Agreement, Genetec hereby grants to Licensee a non-exclusive, non-transferable, non-sub-licensable enterprise-wide license to download, install and use Software in accordance with the applicable Documentation in the form made available by Genetec, up to the maximum number of installations, in the territory and during the term specified in the relevant purchase order. This license allows Licensee to grant access and permit use of Software to its Affiliates and to its and their respective employees, agents, representatives and other persons acting on Licensee's behalf ("**Permitted Users**"), provided that Licensee will at all times remain responsible for its Affiliates' and the Permitted Users' access and use of Software in compliance with the terms of this Agreement. Licensee may make a reasonable number of copies of Software and the relevant Documentation as may be necessary for Licensee's standard archival, disaster recovery, internal testing and regulatory compliance purposes. This license also includes all Software updates (including bug fixes and patches) that Genetec may make available to Licensee, as well as any Software upgrades (including new releases, new features and other substantial Software improvements) which Licensee is eligible to receive either as part of Licensee's subscription to Genetec advanced support and maintenance offering known as Genetec Advantage (or

its future replacement; herein referred to as "**Genetec Advantage**") or otherwise.

b. <u>Trial Licenses</u>. In certain cases, Genetec may offer trial licenses to allow Licensee to evaluate Software. Certain Software features may be either limited or unavailable as part of trial licenses. The duration of trials may vary from one Software to another. The trial license will end upon the expiration of the trial period, unless Licensee will have procured a full license to such Software before then. The trial license may terminate sooner in accordance with this Agreement.

c. <u>License Restrictions</u>. Licensee warrants that it will not (and will not encourage, assist or permit any other person to): (i) translate, decompile, reverse engineer, modify or otherwise tamper with, or attempt to derive the source code or any other proprietary technology of, Software, in whole or in part; (ii) access or use Software to develop competing products or technology, or otherwise create derivative works of Software or parts thereof; (iii) remove, alter or obscure any proprietary notices that appear in Software; (iv) copy, reproduce, distribute, rent, loan, sell, transfer, grant any license, sub-license or otherwise make available Software to third parties except as expressly permitted in this Agreement, (v) use Software in combination with any system or application where such use or failure of such system or application can reasonably be expected to threaten or result in personal injury, death or catastrophic loss; and/or (vi) access or use Software for any unlawful activity or in any manner that violates the applicable law or the rights of any person (such as any rights to privacy or intellectual property). Licensee further warrants that it will use Software in an ethical and responsible manner, in compliance with the Universal Declaration of Human Rights of the United Nations and other applicable legislation combatting modern slavery practices or other violations of human rights, including those pertaining to discrimination and harassment.

d. <u>License Control</u>. Software may contain standard license control mechanisms to ensure that it is functional only during the period covered by the license key that Software is paired with. As such, if Licensee procures Software on a temporary or subscription basis, Licensee shall keep the license key information in Software up to date to ensure that Software functions without interruption. Depending on Software, the above may be achieved by enabling the automated license control option in Software or by manually pairing the most up to date license key with Software. Genetec will not be responsible for any interruption in Software if Licensee fails to pair the most up to date license key with Software in a timely manner.

e. <u>Support</u>. Unless expressly agreed to otherwise in writing, all Software support will be provided to Licensee by the third party authorized reseller from which Licensee has procured such Software and may be subject to additional terms defined by the authorized reseller. If Licensee procures a subscription to Genetec Advantage in relation to Software, Genetec will assist its authorized reseller in its provision of support to Licensee with respect to Software and will use commercially reasonable efforts to resolve all issues experienced by Licensee within the scope of the Genetec Advantage plan procured by Licensee as described in the applicable Documentation during the term of Licensee's subscription to Genetec Advantage.

f. <u>Malicious Code Control</u>. Genetec will not intentionally introduce any Malicious Code and will use commercially reasonable efforts to ensure that no Malicious Code is introduced into Software. If Genetec becomes aware of any Malicious Code within Software, Genetec will promptly notify Licensee of such event and will provide reasonable assistance to Licensee to prevent or mitigate the impact of such Malicious Code.

3. Confidentiality and Licensee Data

a. <u>Confidential Information</u>. In relation to your use of our Software, either Party may disclose certain Confidential Information to the other Party. For the purpose of this section, "**Confidential Information**" means any nonpublic information that is marked or otherwise identified as proprietary or confidential and falls within a recognized exemption to the San Bernardino County Sunshine Ordinance, County Code of Ordinances Section 19.0101, California Government Code 54950, and California Public Records Act (Government Code Section 6250); provided that 'Confidential Information' excludes (a) information which is or becomes known to the public without breach of this Agreement; (b) information developed independently by the "**Receiving Party**" without use of Confidential Information of the "**Disclosing Party**", as the Receiving Party may reasonably demonstrate; and (c) information which is rightfully received by the Receiving Party from a third party without restriction on disclosure and without breach of the Agreement. All Confidential Information disclosed under this Agreement shall (i) remain the property of the Disclosing Party; (ii) only be used by the Receiving Party to the extent required to fulfil its obligations under this Agreement; (iii) be protected by the Receiving Party from unauthorized use and disclosure through appropriate technical, operational and other safeguards that the recipient uses to protect its own Confidential Information of similar nature, and in

any case using, at the minimum, a reasonable degree of care; and (iv) be returned or destroyed upon request of the Disclosing Party and in all cases upon the termination of this Agreement. The foregoing shall not, however, prevent a Party from preserving such records as may be required to ensure its compliance with the applicable law, provided that such Party shall remain bound by these confidentiality obligations for as long as it retains a copy of the other Party's Confidential Information. The Parties agree to hold each other's Confidential Information in confidence during the term of this Agreement and for five (5) years after its termination, save for any information that constitutes a trade secret, which, to the extent permitted under the applicable law, will remain confidential until it ceases to qualify as a trade secret under the applicable law. If the Receiving Party receives a subpoena, or other validly issued administrative or judicial process, or public records request requesting Confidential Information of the Disclosing Party, the Receiving Party will, to the extent legally permissible, promptly notify the Disclosing Party and if requested by the Disclosing Party, the Receiving Party will tender to the Disclosing Party the defense of the subpoena or process. Unless the subpoena or process is timely limited, quashed or extended, the Receiving Party will then be entitled to comply with the request to the extent permitted by law.

b. Optional Features and Licensee Data. Software is built to support integrations and interconnectivity with various other software, hardware, cloud services and other sources of data. However, except as expressly stated below in this section, all data uploaded to or stored in Software will not be accessible to Genetec. To protect Licensee data from unauthorized use or disclosure, Licensee is strongly encouraged to ensure that Software is adequately configured, that all user accounts are protected with secure passwords, and that users keep their login information confidential. By default, Genetec does not have access to any data uploaded to or stored in Software when installed on infrastructure not provided by Genetec. However, certain optional features in Software may, if enabled by Licensee, share certain Licensee data with Genetec to perform their functions. While the use of these features is optional, enabling them will result in the transmission of certain Licensee data to Genetec for processing. In certain cases, Licensee may opt to enable these features on an anonymous basis (in which case, Licensee data will be sent to Genetec in an aggregated manner with such data from all other Genetec licensees), or on an individual basis (in which case, Genetec will be able to associate Licensee data with Licensee). These features, when enabled, will require

Software to connect to and transmit Licensee data over the Internet. Genetec may be also granted access to Licensee data to assist Licensee or its authorized reseller in the resolution of certain advanced Software support issues. Licensee may also opt in to permit Genetec to collect certain non-personal Software performance and usage data to provide the Software or associated support services to Licensee or to develop and improve the quality of Software and other offerings. Such performance and usage data will not contain any of Licensee data and will not be capable of being traced back to either Licensee or its users. In all cases, Genetec will collect, use and otherwise process all Licensee data in accordance with this Agreement and our privacy policy at www.genetec.com/legal/privacy.

4. Intellectual Property Rights

a. Ownership of Rights. Software is protected by law, including all associated intellectual property rights in Canada, the United States, and other countries. Genetec (together with our Affiliates, licensors and partners, as applicable), remains the sole owner of all rights (including intellectual property rights), title and interest in and to Software (including all improvements, translations and other modifications and derivative works), as well as any goodwill associated with it. Regardless of any use of the words 'purchase', 'sale' or the like in this Agreement, any websites, documentation or purchase orders, Software is licensed, not sold, and no title or ownership of any rights in or to Software is being transferred or assigned under this Agreement.

b. Acknowledgements. Certain Software includes certain software programs or code developed and/or licensed to Genetec by third parties, under the licensing terms of which Genetec undertook to acknowledge their respective developers' or owners' intellectual property rights in these components. The list of third party components included in Software is available at www.genetec.com/legal/tpslist and may be updated from time to time by Genetec, as it makes available modifications to Software.

c. Third-Party Products. Certain Software may allow Licensee to connect (through an integration or otherwise), access and use certain plugins and other third-party products or services (each a "**Third-Party Product**") in association with Software. Licensee acknowledges and agrees that any such connection or accesses to any Third-Party Product in association with Software is made available to Licensee for convenience only. Genetec does not endorse any such Third-Party Product, and Genetec makes no representations and

provides no warranties whatsoever with respect to any such Third-Party Product. Third Party Products are not part of Software, and are provided under such terms and conditions under which their respective manufacturers or owners make them available to Licensee, and Licensee alone is responsible for ensuring that Licensee procures all appropriate rights to access and use any such Third Party Products and complies with the terms and conditions applicable to their use.

d. <u>Remedies</u>. Licensee acknowledges that Software contains valuable Confidential Information of Genetec, which may include trade secrets, and its unauthorized disclosure or use may cause significant and irreparable harm to Genetec. As such, Licensee agrees that, in addition to all other remedies available at law or equity, Genetec shall be entitled to seek equitable relief, including injunction and specific performance, as a remedy for Licensee's breach of this Agreement. Furthermore, if Genetec has reasonable grounds to believe that Licensee uses Software in violation of the terms of this Agreement, subject to a reasonable prior written notice to Licensee, Genetec shall have the right to designate, at Genetec's own expense, an independent third party auditor, reasonably acceptable to Licensee, to assess Licensee's compliance with the terms of this Agreement, provided that any such audit must be conducted without undue interruption of Licensee's operations, during regular business hours, and be subject to Licensee's standard security and confidentiality procedures applicable to its premises.

5. Term and Termination

a. <u>Term</u>. This Agreement is effective as of August 8, 2023 and expires November 16, 2025, unless terminated earlier in accordance with its terms.

b. <u>Termination</u>. Without restricting any of a Party's other rights and remedies, A Party may terminate this Agreement (and the license granted herein) if the other Party breaches any of its material obligations under this Agreement (including, without limitation those set out in sections 2.a, 2.c, 4.a, 6.d, 7.a or 7.f) and fails to remedy its breach within thirty (30) calendar days from receipt of a written notice from the other Party advising of such breach, provided that if any such breach is not capable of remedy, then the Agreement shall terminate immediately upon delivery of such written notice.

c. <u>Effect of Termination</u>. Immediately upon the termination of this Agreement for any reason, all licenses granted under this Agreement will automatically terminate and Licensee shall (i) immediately cease (and cause its

users to cease) using Software; (ii) uninstall all instances of Software from devices; and (ii) destroy all copies of the Software and the accompanying Genetec Documentation. However, Licensee may keep a reasonable number of copies of Software and the relevant Documentation as may be necessary for Licensee's standard archival, disaster recovery, internal testing and regulatory compliance purposes as permitted under section 2.a above. The termination of this Agreement will not impact the Parties' respective rights and liabilities accrued during the its term of this Agreement.

d. <u>Survival</u>. Regardless of any termination, the sections which by their nature shall survive the termination of this Agreement will survive its termination, including without limitation sections 2.d, 3, 5.c, 5.d, 4.a, 4.d, 5 and 7.

6. Warranties, Indemnities, Insurance, and Limitations of Liability

a. <u>Software Warranty</u>. Genetec warrants that, for a period of one (1) year from the date of delivery of Software to Licensee (or such other period covered by Licensee's subscription to Genetec Advantage, as applicable), Software will perform in all material respects in accordance with the accompanying Documentation under normal use in infrastructure on which Software was first installed. Genetec does not cover, and hereby disclaims, all warranty claims arising out of or relating to: (i) use of Software with hardware or software other that those required in the Documentation; (ii) modifications to Software made by anyone other than by Genetec; or (iii) defects in Software due to improper use. Genetec does not warrant that the functions contained in Software will meet Licensee's requirements, or that Software will be error free or operate without interruptions. If Software does not comply with the warranty above, then, to the maximum extent permitted by law, Genetec shall, at its sole option, and as Licensee's sole remedy under this warranty, either: (i) repair or replace the parts of Software that do not comply with the warranty above; or (ii) refund the price paid for the Software license that does not comply with this warranty.

b. <u>Disclaimer of Other Warranties</u>. Except for the warranties described in section 6.a above, to the maximum extent permitted by law, Genetec makes no representations and provides no warranties with regards to Software, including without limitation with regards to its performance, availability, coverage, uninterrupted availability, security, operation, or those of any software, hardware, services, connections, networks or Third Party Services used or provided in association with Software. Except as expressly stated

above, Software and all Documentation are provided "as is" and "as available", without any representations or warranties whatsoever, including, without limitation, warranties of title, non-infringement, merchantability, quality, availability or fitness for a particular purpose.

c. Indemnification by Genetec. Genetec agrees to defend Licensee against, or settle, any demands, claims, causes of action, suits and proceedings ("**Claims**") against Licensee brought by a third party alleging that Software, to the extent used in accordance with Documentation, infringes or misappropriates such third party's intellectual property rights in the territory and during the term specified in the relevant purchase order for such Software, and Genetec agrees to indemnify and hold harmless Licensee from any damages, legal costs and reasonable expenses finally awarded against Licensee, or the amounts payable by Licensee under a settlement, as a result of such Claim against Licensee; provided that Licensee promptly gives Genetec a written notice of such Claim, gives Genetec sole control of the defense, and provides Genetec with reasonable and timely assistance at Genetec's expense.. Upon becoming aware of any such Claim, Genetec may, at its option and expense, either: (i) obtain for Licensee the right to continue to use Software; (ii) replace or modify Software so it becomes non infringing; or (iii) if Genetec determines that the resolutions described in items (i) and (ii) are not commercially practicable, then terminate this Agreement and the licenses granted hereunder with prior written notice to Licensee and refund to Licensee the price paid for its Software license; provided that if the Software license was procured on a subscription basis, then Genetec shall solely refund to Licensee any prepaid but not used subscription fees. This section sets out Genetec's entire liability and Licensee's sole remedy with respect to any Claims concerning infringement or misappropriation of third-party intellectual property rights.

d. Indemnification by Licensee. Licensee agrees to defend Genetec against, or settle, any Claims against Genetec brought by a third party and that arises from (i) Licensee's breach of section 2.c and/or 7.a of this Agreement; and Licensee agrees to indemnify and hold harmless Genetec from any damages, legal costs and reasonable expenses finally awarded against Genetec, or the amounts payable by Genetec under a settlement, as a result of such Claim against Genetec, provided that Genetec promptly gives Licensee a written notice of such Claim, gives Licensee sole control of the defense, and provides Licensee with reasonable and timely assistance at Licensee's expense.

e. Limitation of Liability. To the maximum extent permitted by law, Genetec will not be liable for any damages or other liabilities incurred by Licensee (or any of its users) to the extent arising from use of Software: (i) in violation of any provision of this Agreement; (ii) in a manner not covered in the Documentation or misaligned with Genetec's instructions or the primary purpose of such Software; (iii) in combination with any product, software, service, equipment or infrastructure not designated by Genetec in the applicable Documentation or in the list available at www.genetec.com/sdl as being compatible with Software; (iv) following any alteration or repair of Software made by anyone other than Genetec, unless done with Genetec's prior written approval and in full compliance with Genetec's written directives; (v) during any period not covered by a duly obtained and paid-for license; and/or (vi) in any abnormal working conditions, such as, in high temperatures, high pressure, and the like. In no event shall Genetec be liable to Licensee for any special, exemplary, indirect, incidental, consequential or punitive damages, regardless of the theory of action, even if Genetec has been advised of the possibility of such damages, including, without limitation, lost profits, lost business revenue, lost goodwill, business interruption, other economic loss or any loss of recorded data. Except for Genetec's indemnity obligations hereunder, in no event shall Genetec's total aggregate liability under this Agreement and in association with Software licensed hereunder shall exceed the amount paid by Licensee for the relevant Software license.

f. Insurance. Without in anyway affecting the indemnity herein provided and in addition thereto, Genetec shall secure and maintain throughout the Agreement term the types of insurance with limits as shown and under the requirements set forth in Attachment A, as attached hereto and incorporated herein.

7. General

a. Compliance with Laws. Licensee understands and agrees that Licensee's access to and use of Software must be in compliance with all applicable laws, rules and regulations, including, without limitation, those pertaining to privacy, intellectual property, export controls and trade sanctions. Licensee is responsible for determining if and how Licensee needs to comply with the applicable laws and if Licensee needs to obtain any permits before Licensee installs, accesses and uses Software.

b. Contact Information. To contact Genetec for matters related to this Agreement, Licensee shall write to

Genetec, 2280 Alfred-Nobel Blvd., Montreal, QC, H4S 2A4, Canada, c/o Legal Department, or to legal@genetec.com. If Genetec needs to contact Licensee for matters related to this Agreement, Genetec will use the contact information that Licensee or its authorized reseller will have provided to Genetec as part of Licensee's procurement of its license to Software. Licensee shall promptly advise Genetec of any changes to its contact information. All notices will be deemed delivered on the date shown on the postal receipt or on the confirmation of delivery for courier, facsimile or electronic mail.

c. <u>Force Majeure</u>. Licensee hereby acknowledge that circumstances outside of Genetec's reasonable control (such as, without limitation, internet or power outages, fires, floods, sabotage, large scale outbreaks of computer virus, malware or other malicious code, strikes, riots, wars or the like) may cause delays in its ability to perform services related to our Software. As such, Genetec shall have no liability whatsoever to Licensee for any damages whatsoever resulting from such delays or any incapacity to perform such services in a timely manner.

d. <u>Waiver</u>. Failure by a Party to fully enforce its rights under this Agreement shall not prevent that Party from exercising such right at any time thereafter; nor shall any failure or delay by a Party to enforce any right or privilege under this Agreement be interpreted as a waiver of such right or privilege by that Party.

e. <u>Severability</u>. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, unenforceable or otherwise contrary to law, such provision shall be changed and interpreted to best accomplish the objectives of the original provision to the fullest extent permitted by law. Nonetheless, such provision shall continue to apply in full force and effect in all other jurisdictions, as the case may be. Moreover, the remaining provisions of this Agreement shall remain in full force and effect.

f. <u>Assignment</u>. Neither Party may assign or otherwise transfer this Agreement or any of its rights or obligations hereunder to any person or entity (including any licenses granted herein), in whole or in part, without the other Party's prior written consent.

g. <u>Applicable Law and Forum</u>. This Agreement shall be governed by and construed according to 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. If any legal action is instituted to enforce any Party's rights against the other Party 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 Requirements.

h. <u>U.S. Government Users</u>. If Licensee is an entity of the U.S. Government, or if this Agreement otherwise becomes subject to the Federal Acquisition Regulations (FAR), the Defense Federal Acquisition Regulations (DFARS) or similar regulatory regimes, Licensee acknowledges that Software and any Documentation are "commercial items" in accordance with the applicable regulations.

i. <u>Entire Agreement</u>. This Agreement constitutes the entire understanding between the Parties with regards to the subject matter hereof and supersedes any other prior and contemporaneous communications and agreements. The Parties agree that any alterations, variations, modifications, or waivers of the provisions of this Agreement, shall be valid only when reduced to writing, executed and approved by authorized representatives of Genetec and Licensee. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The Parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail 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.

IN WITNESS WHEREOF, the San Bernardino County and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY		GENETEC INC.	

SAN BERNARDINO COUNTY

► _____

Dawn Rowe, Chair, Board of Supervisors

Dated: _____

SIGNED AND CERTIFIED THAT A COPY OF THIS

DOCUMENT HAS BEEN DELIVERED TO THE

CHAIRMAN OF THE BOARD

Lynna Monell

Clerk of the Board of Supervisors

of the San Bernardino County

By _____

Deputy

GENETEC INC.

By ► **Francois Touchette - SIG** Digitally signed by Francois Touchette - SIG Date: 2023.07.13 14:30:09 -04'00'

Name François Touchette

Title *Vice President Legal Affairs and General Counsel*

Dated: July 13, 2023

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
► _Adam Ebright_ Deputy County Counsel	►	► Pete Mendoza, Interim Director Purchasing
Date 7-20-23	Date	Date 7/31/23

ATTACHMENT A
INSURANCE REQUIREMENTS

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

1. Without in anyway affecting the indemnity herein provided and in addition thereto, Genetec shall secure and maintain throughout the Agreement term the following types of insurance with limits as shown:

   a. Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with $250,000 limits covering all persons including volunteers providing services on behalf of Genetec and all risks to such persons under this Agreement. If Genetec has no employees, it may certify or warrant to Licensee that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by Licensee's Director of Risk Management. With respect to contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

   b. Commercial/General Liability Insurance – Genetec shall carry General Liability Insurance covering all operations performed by or on behalf of Genetec providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars ($1,000,000), per occurrence. The policy coverage shall include:
      i.   Premises operations and mobile equipment.
      ii.   Products and completed operations.
      iii. Broad form property damage (including completed operations).
      iv.   Explosion, collapse and underground hazards.
      v.   Personal injury.
      vi.   Contractual liability.
      vii. $2,000,000 general aggregate limit.

   c. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars ($1,000,000) for bodily injury and property damage, per occurrence. If Genetec is transporting one or more non-employee passengers in performance of Agreement services, the automobile liability policy shall have a combined single limit of two million dollars ($2,000,000) for bodily injury and property damage per occurrence. If Genetec owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

   d. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

   e. Professional Liability – Professional Liability Insurance with limits of not less than one million ($1,000,000) per claim and two million ($2,000,000) aggregate limits

   or

   Errors and Omissions Liability Insurance – Errors and Omissions Liability Insurance with limits of not less than one million ($1,000,000) and two million ($2,000,000) aggregate limits

If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the start of the Agreement work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after Agreement completion.

    f. <u>Cyber Liability Insurance</u> - Cyber Liability Insurance with limits of no less than $1,000,000 for each occurrence or event with an annual aggregate of $2,000,000 covering privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved Licensee entities and cover breach response cost as well as regulatory fines and penalties.

2. **Proof of Coverage**. Upon request from the Licensee, Genetec shall furnish Certificates of Insurance to Licensee 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 Genetec shall maintain such insurance from the time Genetec commences performance of services hereunder until the completion of such services. Upon request from the Licensee, within fifteen (15) days of the commencement of this Agreement, Genetec 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.

3. **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".

4. **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.

5. **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, Licensee 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 Licensee will be promptly reimbursed by Genetec or Licensee payments to Genetec will be reduced to pay for Licensee purchased insurance.