THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY

SAN BERNARDINO COUNTY
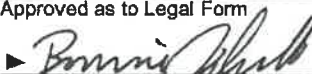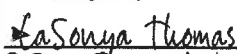
Contract Number
21-129

SAP Number

Human Services Personnel

Department Contract Representative	David Quiroz
Telephone Number	(909) 386-3713
Contractor	Biometrics4ALL, Inc.
Contractor Representative	Edward Chen
Telephone Number	(714) 801-2009
Contract Term	February 9, 2021 through February 8, 2026
Original Contract Amount	$138,000 not to exceed
Amendment Amount	$
Total Contract Amount	$138,000 not to exceed
Cost Center	

Live Scan Fingerprinting and Related Services Agreement with Biometrics4ALL, Inc., for Live Scan Fingerprinting, in the annual not to exceed amount of $27,600 for a total amount not to exceed $138,000 for the period of February 9, 2021 through February 8, 2026.

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
► *Bonnie Uphold*	*Jennifer Mulhall-Daudel*	*LaSonya Thomas*
Bonnie Uphold, Deputy County Counsel	Jennifer Mulhall-Daudel, HS Contracts Unit	CaSonya Thomas, Assistant Executive Officer
Date 2-3-21	Date February 3, 2021	Date February 3, 2021

Non-Standard Contract Coversheet

Revised 3/14/19

LIVE SCAN FINGERPRINTING
AND RELATED SERVICES AGREEMENT

Biometrics4ALL, Inc.

220 Commerce, Suite 150

Irvine, CA 92602

www.Biometrics4ALL.com

www.ApplicantServices.com

Phone: (714) 568-9888

This Services Agreement ("Agreement") is between Biometrics4ALL, Inc., a California Corporation, with its principal place of business at 220 Commerce, Suite 150, Irvine, CA 92602 ("Biometrics4ALL") and the County of San Bernardino, a political subdivision of the State of California, with an office at 834 Hardt Street, San Bernardino, California 92415 ("Client") and is entered into on February 9, 2021 ("Effective Date") for Biometrics4ALL's provision of services to Client ("Services") as specifically set forth herein. Biometrics4ALL and Client may be referred to in this Agreement individually as a "Party" and collectively as the "Parties." Parties agree as follows:

1 Definitions

1.1 Proprietary Information

Parties' trade secrets and other intellectual property, including but not limited to customer lists, consumer information, software technology, systems, and all other non-public information or proprietary materials related to Parties' business operations, technology, and employees.

- "Property" means all documents owned by the supplying party or related to each party's customers or consumer information that the recipient party becomes exposed to or in possession of in the course of the performance of Services pursuant to this Agreement including, but not limited to, manuals, papers, records, customer lists.

- "Consumer Information" shall mean information or data about a particular person, including, but not limited to, Social Security Number (SSN), date of birth, driver's license information, current and past address information, current and past employer information, criminal record history, and any other confidential consumer information.

- "Third Party" shall mean any entity who does not have a direct ownership connection or is not directly operated by the Parties.

- "Sensitive Personal Information" shall mean a person's first name and last name or first initial and last name in combination with any one or more of the following data elements that relate to such person: (i) Social Security number; (ii) driver's license number or state-issued identification card number; or (iii) financial account number, or credit or debit card number (with or without any required security code, access code, personal identification number or password, that would permit access to an individual's financial account; provided, however, that Personal Information shall not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public.

- "Confidential Information" shall mean information each party (the "Disclosing Party") may disclose or make available to the other party (the "Receiving Party"), whether orally or in physical form, non-public confidential or proprietary information concerning the Disclosing Party and its business, products and/or services, including its product plans, specifications, designs, processes, procedures, algorithms, development, costs, pricing, trade secrets, trademarks, finances,

marketing plans, business opportunities, personnel, research, IP rights, know-hows, and other intellectual properties (collectively, "Confidential Information"). In addition, Confidential Information includes but is not limited to Proprietary Information, Consumer Information, and Sensitive Personal Information. Confidential Information shall not include information which (a) was rightfully in the possession of the Receiving Party prior to disclosure by the Disclosing Party; (b) was or is independently developed by the Receiving Party without use of the Confidential Information; (c) is now or hereafter becomes available to the public other than as a result of disclosure by the Receiving Party in violation of this Agreement; or (d) becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party and such source is not, to the best of the Receiving Party's knowledge, under any obligation to keep such information confidential.

- "White Label Website" shall mean a publicly available website with Client's logo, Client specific text, client specific legal disclaimers, video links, pictures, and instructions based on Biometrics4ALL's principal website design with specific layout structure.

2 Engagement

Parties' service arrangement as set forth in this Agreement is on a "nonexclusive" basis. Parties shall perform and deliver all Services in a professional manner in accordance with the standards set forth in this Agreement.

3 Affiliate Statements of Work

Parties agree that Client's affiliated entities (each, an "Affiliate") are also authorized to independently procure Services from Biometrics4ALL pursuant to the same terms and conditions of this Agreement upon execution of a mutually agreeable Statement of Work ("SOW") directly between Biometrics4ALL and such Affiliate(s). Any additional or different terms from this Agreement that Parties mutually agree to include will be set forth in the applicable SOW.

4 Independent Relationships

In this Agreement, Client provides Biometrics4ALL with general guidelines on the Services to be performed and Biometrics4ALL shall determine the best methods and operations to ensure such Services are accomplished in accordance with such guidelines and applicable laws. Biometrics4ALL is not prohibited from rendering similar services to any other entity during the Term of this Agreement. Similarly, Client is not prohibited from obtaining similar Services from any other party. Biometrics4ALL shall render Services to Client as an independent contractor. As such, Biometrics4ALL shall be solely responsible all aspects of its business to deliver services to the Client. Client shall not have any influence or control over Biometrics4ALL's independent operation, nor shall it interfere with Biometrics4ALL's subcontractors. Neither Party may assume or create an obligation or responsibility on behalf of, or in the name of, the other Party.

5 Compensation

Unless otherwise agreed in writing, Client shall pay Biometrics4ALL at the rate shown in **Exhibit A – Statement of Work and Rate Schedule** for all Services rendered by Biometrics4ALL pursuant to this Agreement.

6 Insurance

Both Parties shall obtain all insurance requirements set forth in **Exhibit B – Insurance Requirements.**

7 Confidentiality

Except as required by law, Parties shall maintain all information delivered by or produced for Services on a confidential basis and shall not utilize such information directly or indirectly for the benefit of the other Party, Client, or any third-party. Parties recognize and acknowledge that as a result of Services rendered and technology provided pursuant to this Agreement, Parties may have access to Proprietary Information and/or Consumer Information. During and after the Term of this Agreement, neither party shall directly or indirectly disclose or use any Proprietary Information and/or Consumer Information except as specifically set forth in this Agreement without the prior written consent of the other party. Parties shall abide by all data security requirements set forth in **Exhibit C – Data Privacy and Security Provisions.**

8 Non-Solicitation

During the Term of this Agreement and for a twelve (18) month period thereafter, neither Party shall directly or indirectly solicit, hire, retain or utilize the services of any person who was employed or contracted by either Party on a full or part time basis during the term of this Agreement or any part thereof other than pursuant to a general publicly available solicitation or employment advertisement.

9 Compliance with Law and Regulation

Each Party shall comply with all laws and regulations governing the Services and to the extent applicable such laws governing, the dissemination and use of Consumer Information including the Fair Credit Reporting Act, 15 U.S.C. §1681 et seq. ("FCRA"), California Penal Code 115 PC – Falsifying Documents, 127 PC, and 123 PC. The FCRA imposes criminal penalties – including a fine, up to two (2) years in prison, or both – against any person who knowingly obtains Consumer Information under false pretenses from a consumer reporting agency, and other penalties for anyone who obtains Consumer Information without a permissible purpose or otherwise misuses such Consumer Information. Parties that store or take control of Criminal History Records Information ("CHRI") shall comply with the latest FBI CJIS Security Policy.

10 Notices

All notices, requests, demands or other communications must be in writing, except when expressly stated otherwise in this Agreement, and will be deemed to have been given when received upon by hand, certified or overnight mail, addressed as follows:

<table>
<tr><td><u>IF TO CLIENT:</u></td><td><u>IF TO BIOMETRICS4ALL:</u></td></tr>
</table>

IF TO CLIENT:	IF TO BIOMETRICS4ALL:
County of San Bernardino	**Biometrics4ALL, Inc.**
Address: 834 Hardt Street	Address: 18300 Von Karman Ave, Ste 700
San Bernardino, CA 92415	Irvine, CA 92612
Phone: (909) 386-3711	Phone: (714) 568-9888
Email: Carissa.Cambare@hss.sbcounty.gov	Email: contracts@biometrics4all.com

Parties may, by notice under this section, designate additional or different addresses to which notices must be sent.

11 Invoicing and Payment

In consideration of the provision of the Services pursuant to **Exhibit A – Statement of Work and Rate Schedule**. Biometrics4ALL shall invoice Client by the 5th of each month for the prior month services. Client shall pay Biometrics4ALL Net 30 days from the date of invoice. Invoices shall display the Contract Code and itemization of the services rendered.

12 Terms

The term of this Agreement ("Term") will commence on the Effective Date and continues for a period of five (5) years. Immediately upon expiration or termination of this Agreement, both parties shall return the other party's confidential and/or proprietary properties to the extent permitted by applicable law. Biometrics4ALL shall destroy Client's data and information in accordance to standard governing body's data retention policies.

13 Dispute Resolution

13.1 Prevention of Claims

Parties hereby agree that differences may arise between Parties from becoming claims against one another. With the intent of avoiding this situation, Parties agree to make good faith efforts to identify in advance and discuss the potential causes of disputes. Parties agree to make good faith efforts to reach a reasonable resolution and financial settlement.

14 Force Majeure

Notwithstanding any provision to the contrary, no party to this Agreement will be liable to the other party for any delay or interruption in performance of any obligation resulting from governmental emergency orders, judicial or governmental action, emergency regulation, sabotage, riot, vandalism, labor strike, or dispute, acts of God, fire, electrical failure, major computer hardware or software failure, equipment delivery delay, acts of third parties, or any other cause, if the delay or interruption in performance is beyond its reasonable control.

15 Entire Agreement and Amendments

This Agreement, including any exhibits, addendums, schedules and amendments (all of which are incorporated by reference and included in the definition of "Agreement"), supersedes any and all prior negotiations and agreements, including prior versions of the Agreement between Parties, oral or written, between the Parties, and represents the entire agreement between the Parties regarding the subject matter of this Agreement. Any amendment to this Agreement must be in writing and signed by an authorized representative of each Party.

16 Waiver of Rights

Failure of any party to enforce any of its respective rights or remedies hereunder with respect to any specific act or failure to act by any party will not constitute a waiver of the rights of that party to enforce those rights and remedies with respect to any other or subsequent act or failure to act.

17 Termination

a. The Agreement may be terminated immediately by either party if any local, state or federal legislation or case law, regulatory action or government mandate would prevent Client from using Biometrics4ALL's services.

b. Either Party defaults in the performance of its material obligations hereunder and fails to substantially cure such default within sixty (60) days after receipt of a written notice of breach.

c. Either Party may terminate this Agreement if the other Party uses their services in a manner that violates any of the applicable laws and does not cure such violation within thirty (30) business days from the date of detailed written notice of the violation from the other Party.

d. Either Party may terminate this Agreement immediately if the other Party becomes the subject of any proceeding commenced under any provision of the United States Bankruptcy Code, or executes any assignment for the benefit of creditors or the filing for relief under any applicable reorganization, moratorium or similar debtor relief Laws, then in any such event the other party may terminate this Agreement upon delivery of written notice.

e. Either Party may terminate this Agreement for convenience by providing the other Party sixty (60) business days' written notice of the termination.

f. Parties shall return all physical material or software belonging to the other Party within seven (7) days to the other Party unless otherwise agreed.

g. Client shall pay all service fees rendered plus any unfulfilled annual volume commitment prorated to the end of the contract.

18 Limitation of Liability and Indemnification

a.   <u>Indemnification</u> – Biometrics4all agrees to indemnify, defend (with counsel reasonably approved by Client) and hold harmless the Client and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the Client on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. Biometrics4all's indemnification obligation applies to the Client's "active" as well as "passive" negligence but does not apply to the Client's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

b.   Biometrics4all will indemnify, defend, and hold harmless Client and its officers, employees, agents and volunteers, from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement of any United States patent, copyright, trademark or trade secret (Intellectual Property Rights) by any Goods or Services. If a credible claim is made or threatened, including without limitation the filing of a lawsuit against Client, or Client receives a demand or notice claiming actual or potential infringement or misappropriation of any Intellectual Property Rights, Client will use reasonable efforts to notify Biometrics4all promptly of such lawsuit, claim or election. However, Client's failure to provide or delay in providing such notice will relieve Biometrics4all of its obligations only if and to the extent that such delay or failure materially prejudices Biometrics4all's ability to defend such lawsuit or claim. Client will give Biometrics4all sole control of the defense (with counsel reasonably acceptable to Client) and settlement of such claim; provided that Biometrics4all may not settle the claim or suit absent the written consent of Client unless such settlement (a) includes a release of all claims pending against Client, (b) contains no admission of liability or wrongdoing by Client, and (c) imposes no obligations upon Client other than an obligation to stop using the Goods or Services that are the subject of the claim. In the event that Biometrics4all fails to or elects not to defend Client against any claim for which Client is entitled to indemnity by Biometrics4all, then Biometrics4all shall reimburse Client for all reasonable attorneys' fees and expenses within thirty (30) days from date of invoice or debit memo from Client. After thirty (30) days, Client will be entitled to deduct any unpaid invoice or debit memo amount from any amounts owed by Client to Biometrics4all. This shall not apply to any judgment or settlement amount, which amounts Client shall be entitled to notify, invoice or debit Biometrics4all's account at any time; and Client, at its sole discretion, may settle the claim or suit.

c.   If, in Biometrics4all's opinion, any goods or services became, or are likely to become, the subject of a claim of infringement of Intellectual Property Rights, Biometrics4all may, at its option: (i) procure for Client the right to continue using the goods or receiving the services; (ii) replace or modify the goods or services to be non-infringing, without incurring a material diminution in performance or function; or (iii) if neither of the foregoing is feasible, in the reasonable judgment

of Biometrics4all, Client shall cease use of the goods or services upon written notice from Biometrics4all, and Biometrics4all shall provide Client with a pro-rata refund of the unearned fees paid by Client to Biometrics4all for such goods or services.

19 Governing Law and Venue

This agreement shall be governed by, and construed and enforced in accordance with, the laws of the state of California other than conflict of laws principles thereof directing the application of any law other than that of California. The United States District Court, Central District of California, Santa Ana Division and the California State Courts with jurisdiction of Orange County will have exclusive jurisdiction over any and all disputes between Parties arising out of or relating to this agreement, the fulfillment of any Services or responsibilities describes herein, and any and all of the agreements, instruments and documents contemplated hereby. Parties hereby consent to and agree to submit to the jurisdiction of such courts.

20 Enforceability

If any provision of this Agreement is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, Parties shall, if possible, agree on a legal, valid, and enforceable substitute provision that is as similar in effect to the deleted provision as possible. The remaining portion of the Agreement not declared illegal, invalid, or unenforceable shall, in any event, remain valid and effective for the term remaining unless the provision found illegal, invalid, or unenforceable goes to the essence of this Agreement.

21 Survivability

Termination of this Agreement will not affect Parties' rights or obligations pursuant to other provisions of this Agreement that, by their sense and context, are intended to survive termination of this Agreement for two (2) years, including, but not limited to, confidentiality, non-solicitation, limitation of liability and indemnification.

22 Assignment

Parties shall not assign this Agreement or any interest herein or allow the same to be assigned by operation of law or otherwise without the prior written consent of the other Party. Subject to the foregoing, this Agreement inures to the benefit of, and is binding upon, Parties hereto and their respective successors and assigns.

23 Section Headings

Section headings contained in this Agreement are for convenience of reference only and shall not affect, in any way, the meaning or interpretation of this Agreement.

24 Signature Authority

Each Party represents that this Agreement has been executed on such Party's behalf on the date written below by a representative authorized to bind that Party with respect to the undertakings and obligations contained in this Agreement.

This Contract 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 Contract. The parties shall be entitled to sign and transmit an electronic signature of this Contract (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 Contract upon request.

	Client	**Biometrics4ALL, Inc.**
Company Name:	County of San Bernardino	**Biometrics4ALL, Inc.**
Signature:		DocuSigned by: *Edward Chen* A0C8BBE36F314AF...
Printed Name:	Curt Hagman	**Edward Chen**
Title:	Chairman of the Board of Supervisors	**President/CEO**
Date:	FEB 09 2021	January 12, 2021
Address:	834 Hardt Street San Bernardino, CA 92415	**18300 Von Karman, Suite 700 Irvine, CA 92612**
Phone:	(909) 386-3711	**714-568-9888**

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 County of San Bernardino

By _____
            Deputy

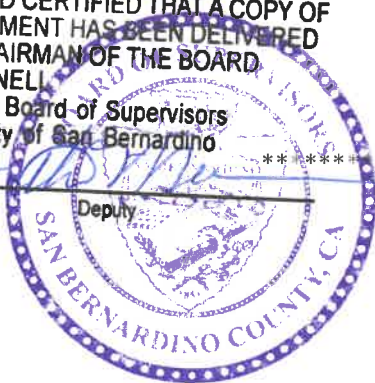*** ***** ***Section Intentionally Left Blank ***********

Exhibit A – Statement of Work and Rate Schedule

Statement of Work

Biometrics4ALL shall provide a technology service platform via ApplicantServices.com that facilitates and streamlines social distancing fingerprinting services. Client commits to process a minimum quantity of transactions on ApplicantServices.com each calendar year based on the tiered pricing in Table A (Fee Schedule), hereon referred to as "Annual Minimum Commitment". Upon commencement of the Agreement and the by the 5th day of each calendar year; Client shall select a Price Tier/Annual Minimum Commitment from the Fee Schedule below for the calendar year and email the commitment to contracts@biometrics4all.com. Client is financially obligated to the selected Tier's Annual Minimum Commitment. In the event the Client fails to purchase the Annual Minimum Commitment in the Client selected tier for the prior year, Client is obligated to pay the difference as a Gap Credit by the 30th of January of the year. This Gap Credit automatically expires on February 1st of each year and will be applied automatically towards January usage. Transactions paid by the Gap Credit do not count towards the Annual Minimum Commitment count for the year. Biometrics4ALL will consolidate the selected Tier fees with all government, regulatory, and merchant fees and invoice the Client on the 1st of every month for the services rendered in the previous month.

Table A: Fee Schedule (Excludes All Government, Regulatory, and Merchant Fees) ***

Type	Description of Service	By Outsourced Live Scan Services	By Client with Purchased Biometrics4ALL Live Scan
Tier 1 – Annual Minimum Commitment: 180 Transactions			
First Print Submission	ApplicantServices.com Platform without CHRI hosting	$25.00	$13.00
Second Print Submission	Rejected by receiving agency	$0.00	$0.00
Tier 2 – Annual Minimum Commitment: 500 Transactions			
First Print Submission	ApplicantServices.com Platform without CHRI hosting	$23.00	$11.50
Second Print Submission	Rejected by receiving agency	$0.00	$0.00
Tier 3 – Annual Minimum Commitment: 2,500 Transactions			
First Print Submission	ApplicantServices.com Platform without CHRI hosting	$20.00	$10.00
Second Print Submission	Rejected by receiving agency	$0.00	$0.00
Tier 4 – Annual Minimum Commitment: 5,000 Transactions			
First Print Submission	ApplicantServices.com Platform without CHRI hosting	$18.00	$8.00
Second Print Submission	Rejected by receiving agency	$0.00	$0.00
Tier 5 – Annual Minimum Commitment: 10,000 Transactions			
First Print Submission	ApplicantServices.com Platform without CHRI hosting	$17.00	$7.00
Second Print Submission	Rejected by receiving agency	$0.00	$0.00
Tier 6 – Annual Minimum Commitment: 20,000 Transactions			
First Print Submission	ApplicantServices.com Platform without CHRI hosting	$16.00	$6.00
Second Print Submission	Rejected by receiving agency	$0.00	$0.00

*** Fees are per transaction rate

Client's Agreement Commencement Tier Selection: T2

Exhibit B – Insurance Requirements

1. Client shall procure and maintain throughout the term of this Agreement a policy at Client's sole cost to insurance coverage required by applicable law for the performance of the Services that shall include a minimum of the following:

   a. Commercial General Liability coverage with a single limit of not less than One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) aggregate.

   b. Professional liability/error and omissions coverage with a single limit of not less than One Million Dollars ($1,000,000) per occurrence and aggregate.

   c. Cyber Insurance coverage with a single limit of not less than One Million Dollars ($1,000,000) per occurrence and aggregate.

The insurance required herein shall be issued by an insurance company authorized to do business in all states necessary to ensure effective coverage under this agreement, and be written with a carrier that maintains an A.M. Best rating of at least A-.

2. <u>Additional Insured</u> – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the Client and its officers, employees, agents and volunteers as additional insureds 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 Client to vicarious liability but shall allow coverage for the Client 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 2010.1185.

3. <u>Waiver of Subrogation Rights</u> – Biometrics4all shall require the carriers of required coverages to waive all rights of subrogation against the Client, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit Biometrics4all and Biometrics4all's employees or agents from waiving the right of subrogation prior to a loss or claim. Biometrics4all hereby waives all rights of subrogation against the Client.

4. <u>Primary and Non-Contributory</u> – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the Client.

5. <u>Severability of Interests</u> – Biometrics4all 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 Biometrics4all and the Client or between the Client and any other insured or additional insured under the policy.

6.   <u>Proof of Coverage</u> – Biometrics4all shall furnish Certificates of Insurance to the Client Department administering the Contract evidencing the insurance coverage, including endorsements, as required, 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 Biometrics4all shall maintain such insurance from the time Biometrics4all commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this Contract, Biometrics4all 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.

7.   <u>Acceptability of Insurance Carrier</u> – 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".

8.   <u>Deductibles and Self-Insured Retention</u> – Any and all deductibles or self-insured retentions in excess of $10,000 shall be declared to Risk Management.

9.   <u>Failure to Procure Coverage</u> – In the event that any policy of insurance required under this Contract does not comply with the requirements, is not procured, or is canceled and not replaced, the Client has the right but not the obligation or duty to cancel the Contract or obtain insurance if it deems necessary and any premiums paid by the Client will be promptly reimbursed by Biometrics4all or Client payments to Biometrics4all will be reduced to pay for Client purchased insurance.

10.   <u>Insurance Review</u> – Insurance requirements are subject to periodic review by the Client. 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 Client. 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 Client, inflation, or any other item reasonably related to the Client's risk. Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Contract. Biometrics4all agrees to execute any such amendment within thirty (30) days of receipt. Any failure, actual or alleged, on the part of the Client 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 Client.

11. Biometrics4all agrees to provide insurance set forth in accordance with the requirements herein. If Biometrics4all uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, Biometrics4all agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

Without in anyway affecting the indemnity herein provided and in addition thereto, Biometrics4all shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

a. <u>Workers' Compensation/Employers Liability</u> – 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 Biometrics4all and all risks to such persons under this Contract. If Biometrics4all has no employees, it may certify or warrant to the Client 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 the Client's Director of Risk Management. With respect to vendors 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. <u>Commercial/General Liability Insurance</u> – Biometrics4all shall carry General Liability Insurance covering all operations performed by or on behalf of Biometrics4all providing coverage for bodily injury and property damage with a combined single limit of not less than two million dollars ($2,000,000), per occurrence. The policy coverage shall include:

    1. Premises operations and mobile equipment.

    2. Products and completed operations.

    3. Broad form property damage (including completed operations).

    4. Explosion, collapse and underground hazards.

    5. Personal injury.

    6. Contractual liability.

    7. $2,000,000 general aggregate limit.

c. <u>Umbrella Liability Insurance</u> – 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.

d. Professional Liability – Professional Liability Insurance with limits of not less than two million ($2,000,000) per claim or occurrence and two million ($2,000,000) aggregate limits.

<center>or</center>

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

<center>or</center>

Directors and Officers Insurance coverage with limits of not less than two million ($2,000,000) shall be required for contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the Client.

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 contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after contract completion.

e. Cyber (internet) and Electronic Data Processing (EDP) Insurance – Cyber Liability Insurance with limits of no less than $2,000,000 for each occurrence or event with an annual aggregate of $2,000,000 covering claims involving 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 Client entities and cover breach response cost as well as regulatory fines and penalties.