MASTER SAAS AGREEMENT
Between
DALLAS COUNTY, TEXAS on behalf of the
DALLAS COUNTY ELECTIONS DEPARTMENT
&
SOE SOFTWARE CORPORATION (d/b/a SCYTL)

PREAMBLE

This SUBSCRIPTION AGREEMENT (the "Agreement") is entered into as of this 18th of September, 2018 ("Effective Date") by and between Dallas County, Texas a political subdivision of the State of Texas on behalf of the Dallas County Elections Department with address at 2377 N. Stemmons Frwy, Ste. 820, Dallas Texas, 75207 United States (herein collectively referred to as the "County" or "County") and SOE Software Corporation (d/b/a SCYTL) a corporation existing under the laws of Florida, with principal offices at 5426 Bay Center Drive, Suite 525, Tampa, FL 33609 ("SCYTL"). Collectively, SCYTL and the County shall be referred to as the "Parties" and each separately as the "Party".

RECITALS

A. SCYTL is a technology company specializing in providing election management and online voting solutions. SCYTL has developed and is the rightful owner/SCYTL is the rightful Licensor of the Clarity Suite of Products including Clarity Poll Worker Training, Clarity Election Night Reporting, Clarity Voter Education, among other solutions (hereinafter referred to as the SOFTWARE).

B. The County has decided to retain the services of SCYTL to provide the SOFTWARE on a SaaS model and merge the contracts into a single Master SaaS Agreement with aligned contract end dates.

C. The Parties have determined that SCYTL is the SOLE SOURCE provider of the referenced suite of products.

D. The Parties desire to enter into this Master SaaS Agreement so as SCYTL will license the Software to the County and provide it with associated services under the terms and conditions herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises set forth below, the Parties agree as follows:

ARTICLE 1.- DEFINITIONS

- "Documentation", means standard documentation including setup and back-office user guides in English
- ""County", means Dallas County and Dallas County Elections Department
- "County Data", means all County software, data, information, text, audio, video, images, personal data, supporting documentation or other County data related to this Agreement, as well as, all County software, data, information, text, audio, video, images, personal data, supporting documentation or other County data that is received, accessed, or used by SCYTL as a result of performing any services or obligations under this Agreement.
- "SaaS", means Software as a Service.
- "SCYTL", means SOE SOFTWARE CORPORATION
- SOFTWARE: Clarity Poll Worker Training ("OTP"), Clarity Election Night Reporting ("ENR"), Clarity Voter Education ("VED")
- Subscription: the services and license provided by SCYTL to the County under the terms and conditions of this Agreement as defined in Articles 2 and 3.

ARTICLE 2.- SOFTWARE SUBSCRIPTION

2.1. Provision of the SOFTWARE. Under the terms and conditions hereunder agreed SCYTL provides the County with (i) the SOFTWARE as SaaS; (ii) Maintenance and support services as defined in Article 4; and (iii) hosting for the SOFTWARE (all of them referred hereinafter as the Subscription).

2.2. Grant of License. Subject to the terms and conditions of this Agreement and payment of the Subscription fees, SCYTL hereby grants the County a non-exclusive, non-perpetual, non-transferable license to use the SOFTWARE and the Documentation for internal purposes.

2.3. Reservation of Rights. The SOFTWARE and Documentation are licensed, not sold. SCYTL and affiliates own and shall retain all right, title and interest (including without limitation all patent rights, copyrights, trademark rights, trade secret rights and all other intellectual property rights), in and to the SOFTWARE and Documentation and any copies, corrections, bug fixes, enhancements, modifications, Updates, Upgrades, or new versions thereof, all of which shall be deemed part of the SOFTWARE, as the case may be, and subject to all of the provisions of this Agreement. The County shall keep the SOFTWARE and Documentation free and clear of all liens, encumbrances and/or security interests. No rights are granted to the County pursuant to this Agreement other than as expressly set forth in this Agreement.

2.4. <u>Restrictions</u>. The County shall not (and shall not allow any third party) to: (a) modify, translate, reverse engineer, decompile, disassemble, or create derivative works based on the SOFTWARE and/or Documentation, except to the extent that such restriction is permitted by applicable law; (b) circumvent

any user limits or other license timing or use restrictions that are built into the SOFTWARE; (c) sell, resell, rent, lend, transfer, distribute, license, sublicense or grant any rights in the SOFTWARE and/or Documentation in any form to any person without the written consent of Scytl; (d) remove any proprietary notices, labels, or marks from the SOFTWARE and/or Documentation except those trademarks which are configurable; (e) unbundle any component of the SOFTWARE and/or Documentation; (f) build a product or service that is competitive with the SOFTWARE; (g) copy any ideas, features, functions or graphics of the SOFTWARE and/or Documentation; (h) copy, frame or mirror any part of the SOFTWARE; (i) permit any third party to access the SOFTWARE or (i) use the SOFTWARE and/or the Documentation in violation of applicable laws.

ARTICLE 3: HOSTING AND INSTALLATION

3.1. SCYTL shall provide the County with the following services included in the Subscription Fee as defined in Article 2.

    a. Hosting of the SOFTWARE in SCYTL's servers in a Cloud Hosted Data Center rented by SCYTL located in the US and providing the County access to the hosted SOFTWARE seven (7) days per week, twenty four (24) hours per day except for scheduled maintenance.
    b. Installation, test and initial system set up in the servers in the Data Center.
    c. Standard documentation including setup and back-office user guides in English.

3.2. SCYTL shall provide the County with the following hosting support and service level:

    a. Availability of 99.9% uptime (excluding scheduled maintenance windows).
    b. Reporting tools will be available upon request to show historic data.
    c. Full infrastructure and network redundancy using distributed cloud locations.

ARTICLE 4: MAINTENANCE AND SUPPORT

4.1. During the Term of this Agreement SCYTL shall provide the County with maintenance services and third level support in accordance with the Service Level Agreements attached hereto as Appendix 1 and Appendix 2, being integral part of this Agreement, which shall consist of (i) the updating and upgrading of the SOFTWARE and (ii) the modification and/or adaptation of the SOFTWARE in order to correct and solve any defects, errors or malfunctions in the SOFTWARE;

4.2 The PARTIES have appointed the following persons as their respective Single Point of Contact ("SPOC")

> **COUNTY:** Toni Pippins Poole
> Email: tpippins@dallascounty.org
>
> **SCYTL:** Wendy Williams
> Email: wendy.williams@scytl.com

ARTICLE 5: COUNTY DATA AND DATA PROTECTION

5.1. SCYTL shall not access County's Data, except to prevent or respond to service or technical problems or otherwise at County's request. SCYTL shall not disclose any County Data except as compelled by law or as expressly permitted in writing by County.

5.2. SCYTL agrees to provide County with a full copy of County's backup data within (5) business days of receipt by SCYTL of a written request from the County for the copy in the format and media in use at the time of the request. SCYTL agrees to maintain full backups of County's historical County Data for ninety (90) days at any given time.

5.3 Access to All County Data and Information. SCYTL agrees that County, or any of its duly authorized representatives, has the right of timely and unrestricted access to all records, data and information, including the most current ones available to SCYTL, or under SCYTL's control that are pertinent to the fulfilment of the requirements of this Agreement, in order to audit, monitor, examine, or make excerpts, transcripts and copies of such records, data and information. This right also includes timely and reasonable access to SCYTL's personnel for the purpose of reviewing, interviewing, evaluating and monitoring related to such records, data and information. All such items shall be furnished to the requesting party in Dallas County, Texas without delay.

5.4. In order to provide Maintenance and Support Services, under this Agreement SCYTL may need to have access or process personal data under the control of the County. In that case, SCTYL, as data processor, undertakes to comply with the requirements set forth in the applicable data protection laws and regulations and, in particular:

a. to process the personal data only in accordance with the instructions provided by the County as data controller;

b. to not apply or use the personal data for a purpose other than set out in this Agreement, and

c. to not communicate the personal data to other persons even for their preservation.

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ARTICLE 6: REPORTING AND ACCOUNTABILITY

6.1 SCYTL agrees to submit all required documentation and reports on a timely basis and in accordance with the specified time frames. SCYTL shall maintain complete records of activities.

6.2   Audit. The County Auditor, its assigns, or any other authorized County personnel shall have the unrestricted right to audit data or documents related to this Agreement. Such data shall be furnished in Dallas County at a mutually convenient time within a reasonable time. Should County determine it reasonably necessary, SCYTL shall make all of its records, books and documents reasonably related to this Agreement available without delay to authorized County personnel to fulfil inspection or auditing deadlines and purposes or to substantiate certain provisions under this Agreement.

6.3 Maintenance of Records. SCYTL's records, books and other documents reasonably related to this Agreement shall be kept and maintained in standard form. Such records, books and documents shall be made available in Dallas County subject to inspection by County or authorized County personnel upon request. County shall retain the right to audit the records, books and documents, in whatever form, at their discretion upon reasonable notice to SCYTL. SCYTL shall ensure that any and all electronic data is compatible with County's ability to record and read such data and SCYTL shall provide electronic data in a format compatible with County's information technology capabilities. SCYTL shall furnish all required items, including, but not limited to, documents pertaining to services provided for purposes of this Agreement, records of services performed, records of payments or other items necessary or convenient to transmit and communicate the information needed or convenient for full and unrestricted audit of the SCYTL's records, books and documents.

6.4   Disaster Recovery. SCYTL shall have in effect a written Disaster Recovery Plan to protect all County Data and information under this Agreement and its Amendments for the security, retrieval and recovery of such data and information in the event of a disaster.

6.5   Retention of Records. All records, books and documents related to this Agreement shall be maintained and kept by SCYTL for a minimum of four (4) years and ninety (90) days after termination or expiration of this Agreement. If any litigation, claim or audit involving these documents and/or records begins before the specified period expires, SCYTL must keep the records and documents for not less than four (4) years and ninety (90) days and until all litigation, claims or audit findings are resolved, whichever is later. SCYTL is strictly prohibited from destroying or discarding any records, books or other documents reasonably related to this Agreement, unless the time period for maintaining such under this Article has lapsed.

6.6 Security. SCYTL warrants having in place the security features to avoid loss or unauthorized use of County Data processed by SCYTL on behalf of the County under this Agreement. SCYTL reserves the right to change any of the security features below in order to implement higher security standards, at SCYTL'S sole discretion. The baseline security features included with the SOFTWARE are:

a. Maintenance of physical security standards at the SCYTL office physically located in the United States including card access, visitor monitoring, and employee non-disclosure agreements.

b. Use of a hosting environment following ISO 27001 and ISO 9001 standards for information security.

c. Maintenance of security standards for SCYTL and County access to the system, including 2-factor authentication and password hygiene rules.

d. Use of a VPC to ensure that servers do not have a public IP address and cannot be accessed from the internet

e. Use of Security Groups to allow each group or type of servers to have their own specific set of firewall rules permitting the minimum necessary access for application functionality and server management.

f. Use of Load Balancing to provide redundancy and support AWS proprietary technology against DDOS (distributed denial of service) attacks at the ISO layer 3 and 4 (IP and TCP or UDP).

g. Use of the Cloudfront CDN to provide massive scalability on demand, efficiency in caching and positioning servers closer to end users, and additional DDOS protection.

h. Use of multiple AWS availability zones to protect against an outage at one location. By default, Scytl products are replicated across three AWS availability zones.

i. Use of Route53 Service for DNS, which is integrated with our AWS services and allows for rapid propagation of any changes for better incident response

j. Use of a site-to-site VPN for back-end access.

k. Use of an IDS and log management system.

l. 24/7 physical and application monitoring

m. Annual external penetration testing

6.7 CJIS Compliance. SCYTL acknowledges and assures that it will not view, process, transmit, or store any Criminal Justice Information. SCYTL further acknowledges and assures that the AWS Cloud, on which the SOFTWARE is hosted is CJIS compliant.

6.8 Employee Confidentiality. All SCYTL employees are required to sign confidentiality and non-disclosure agreements upon hiring to ensure the protection of County data.

6.9 SCYTL's Account Management team and any SCYTL personnel processing or handing any County data for Dallas County will be US citizens based out of offices in the United States.

ARTICLE 7: COUNTY RESPONSIBILITIES.

7.1. The County is responsible for all activities that occur in its accounts and for its compliance with the Subscription Agreement.

7.2. The County shall: (i) use best practices and have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all County Data (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the SOFTWARE, and notify SCYTL promptly of any such unauthorized access or use; and (iii) comply with all applicable local, state, provincial, federal and foreign laws in using the SOFTWARE.

7.3. The COUNTY acknowledges that SCYTL's ability to deliver the SOFTWARE and the related Services is dependent upon COUNTY's full and timely cooperation with SCYTL.

7.4. SCYTL will not be liable for any delays in the delivery caused by COUNTY or resulting from COUNTY's failure to fulfil any of its obligations.

ARTICLE 8: SUBSCRIPTION TERM AND TERMINATION

8.1. This Agreement shall be valid and remain in full force and effect for a term of two (2) years and six (6) months as of the Effective Date of July 1st 2018(the "Initial Term"). The Initial Term expires on December 31, 2020. This Agreement may be renewed at the rates quoted in this Master Agreement for two (2) additional one (1) year terms ("Renewal Term(s)"). This Agreement may be terminated by the County in whole or in part, within the Initial Term or any Renewal Term, without cause upon thirty (30) calendar days prior written notice to SCYTL.

8.2. By mutual agreement, the PARTIES may, but shall not be obliged to, renew this Agreement in writing (each new term the "Renewal Term").

8.3. Without prejudice to any other remedy to which a Party may be entitled to at law or in equity, or elsewhere under this Agreement, this Agreement may be terminated in whole or in part, within the Initial Term or any Renewal Term, for cause upon thirty (30) calendar days prior written notice in the event a Party hereto:

a. Is in material breach of this Agreement and fails to remedy such breach within thirty (30) calendar days after receipt of prior written notice by the non-defaulting Party pursuant to Article 17.1 of this Agreement.

b. Does not pay the yearly Subscription Fee, after being requested in writing to do so by SCYTL and without prejudice of the interests set forth in Article 9.4.

8.4 Without prejudice to any other remedy to which the County may be entitled to at law or in equity, or elsewhere under this Agreement, the County reserves the right to terminate this Agreement immediately, in whole or in part, at its sole discretion, for the following reasons:

a. In accordance with the fiscal funding clause contained herein;

b. SCYTL becomes or is declared insolvent or bankrupt, or a petition in bankruptcy or any other proceeding relating to its insolvency, receivership, liquidation or assignment for the benefit of creditors;

c. SCYTL's submission of invoices, data, statements and /or reports that are false;

d. SCYTL's inability to perform under this Agreement due to judicial order, injunction or any other court proceeding;

8.5. Upon termination or expiration of this Agreement the County shall unless otherwise set forth in this Article 8 immediately cease the use of the SOFTWARE and SCYTL shall stop all terminated services and will cease to incur any costs to the County. If instructed by SCYTL the County will delete and/or destroy all copies of the SOFTWARE.

8.6. Termination shall not relieve the County of the obligation to pay any fees accrued or payable to SCYTL prior to the effective date of termination.

8.7 Except for the remedies set out in Article 12 for breach of warranty, if SCYTL is in breach of this Agreement and such breach results in termination of this Agreement by the County, the County will be entitled to receive a refund of all fees paid for all terminated services under this Agreement. The refund will be pro-rated based on the time remaining under the Term for each terminated service listed in Appendix 3. Nothing in this provision precludes the County from seeking any other remedy to which it may be entitled to at law or in equity.

ARTICLE 9.- FEES FOR SUBSCRIPTION AND OTHER SERVICES

9.1. The County shall pay to SCYTL as the price of the Subscription (Subscription fee) for the Initial Term the following fees per year which will be paid upfront at the beginning of each year term: As indicated in Appendix 3

9.2. At least ninety (90) days from the end of the Initial Term, the PARTIES agree to review this Subscription Agreement and, should both PARTIES agree to renew or extend the Subscription (The Renewal Term), SCYTL may increase the License fee for any Renewal Term by at least 5% with thirty (30) days' prior notice to County.

9.3. All Fees, whether for the Initial Term or any of the Renewal Term, are exclusive of taxes. The County, as a county of the State of Texas, is exempted from the payment of Texas state and local sales, excise, and use taxes pursuant to Tex. Tax Code § 151.309,and shall therefore not be liable or responsible to SCTYL for the payment of such taxes under this Agreement.

9.4. SCTYL agrees that a temporary delay in making payments due to County's accounting and disbursement procedures shall not place the County in default of this Agreement and shall not render the County liable for interest or penalties, provided such delay shall not exceed thirty (30) calendar days after its due date. Any payment not made within thirty (30) calendar days of its due date shall bear interest in accordance with Chapter 2251 of the Texas Government Code.

ARTICLE 10: PROFESSIONAL WARRANTIES.

10.1 SCYTL warrants to County that all materials and services will conform to SCYTL's standards for site appearance. County specific materials and services will be completed following approval by the County of the relevant work order. SCYTL will perform all services in a manner that meets the approved work orders from the County. Any work that is determined by the County to not meet the standards in the approved work orders will be corrected without charge. This warranty is limited to rework of the unsatisfactory product without change to the original specifications and without regard to the amount of the effort expended on the original work product.

ARTICLE 11: CONFIDENTIAL INFORMATION AND PROTECTION OF CONFIDENTIAL INFORMATION

11.1. **Ownership of County Data**. All County Data shall remain the property of County and the County exclusively owns all rights, title and interest in and to all County Data. County Data shall not be otherwise used, disclosed sold, assigned, leased or provided, or commercially exploited by or on behalf of SCYTL and its personnel, including, without limitation, employees, officers, agents, subcontractors, invitees, third party vendors, or assigns (collectively, "SCYTL"), to any third party in any respect without County's written consent. SCYTL shall not delete or destroy any County Data or

media on which County Data resides without prior written authorization of County (acting through the Dallas County Commissioners Court). At no cost to County, SCYTL shall upon request promptly return to County, in the format and on the media in use as of the date of the request, any and all requested portion of any County Data it may possess or control.

11.2   The PARTIES shall not disclose privileged or confidential communications or information acquired in the course of the performance of the services under this Agreement, unless authorized by law and approved by the other PARTY. The PARTY agrees to safeguard and adhere to all confidentiality, privacy and security requirements according to this Agreement and the applicable federal, State and local rule and regulations for all information deemed confidential.

11.3   **Confidentiality**. "Confidential Information" means information designated as confidential or which would be recognized as confidential by a reasonable person from its nature and the circumstances surrounding its disclosure.   Confidential Information includes, without limiting the generality of the foregoing, County Data as defined herein, County Software, and information: (1) relating to the Disclosing Party's current or planned software (whether in object code or source code form) or hardware products or services, technical and non-technical information, formulae, tools, patterns, compilations, programs, devices, techniques, drawings, methodologies and processes; (2) relating to Disclosing Party's business, policies, strategies, operations, finances, plans or opportunities, including the identity of, or particulars about, the County's clients, or service providers; (3) marked or otherwise identified as confidential, restricted, secret or proprietary, including, without limiting the generality of the foregoing, information acquired by inspection or oral disclosure provided such information acquired by inspection or oral disclosure was identified as confidential at the time of disclosure or inspection; (4) financial/operating risk patterns and specific audit sample techniques of County or SCYTL; or (5) recognized by statute as confidential, including information relating to individual health, mental health, sexually transmitted diseases, communicable disease, and HIV/AIDS. The designation of material as 'Confidential Information,' however, may not necessarily guarantee the non-release of the documents or information under the Texas Public Information Act or otherwise required by law.

11.4   **Exceptions**.   Notwithstanding the foregoing, Confidential Information does not include information that the Receiving Party can establish: (1) has become generally available to the public or commonly known in either Party's business other than as a result of a breach by the Receiving Party of any obligation to the Disclosing Party; (2) was known to the Receiving Party prior to disclosure to the Receiving Party by the Disclosing Party by reason other than having been previously disclosed in confidence to the Receiving Party; (3) was disclosed to the Receiving Party on a non-confidential basis by a third party who did not owe an obligation of confidence to the Disclosing Party with respect to the disclosed information; (4) was independently developed by the Receiving Party without any

recourse to any part of the Confidential Information; or (5) in the case of County, any information related to the services which County has publicly disclosed in connection with a Request for Proposals for information technology services, including, without limitation, information of an operational, technical or financial nature related to County.

11.5 **Use of Confidential Information**. During the Initial Term of this Agreement or any Renewal Term, the Receiving Party may: (1) disclose Confidential Information received from the Disclosing Party only to its employees, agents, officers, directors, attorneys, and subcontractors who have a need to know such information exclusively for the purpose of performing pursuant to this Agreement and ; (2) reproduce the Confidential Information received from the Disclosing Party only as required to perform pursuant to this Agreement; and (3) disclose Confidential Information as required by law, provided the Receiving Party gives the Disclosing Party prompt notice prior to such disclosure to allow the Disclosing Party to make a reasonable effort to obtain a protective order or otherwise protect the confidentiality of such information. Except as otherwise specifically provided in this Agreement, the Receiving Party shall not during the Initial Term or any Renewal Term and after expiration or earlier termination of this Agreement: (1) disclose, in whole or in part, any Confidential Information received directly or indirectly from the Disclosing Party; or (2) sell, rent, lease, transfer, encumber, pledge, reproduce, publish, market, transmit, translate, modify, reverse engineer, compile, disassemble or otherwise use the Confidential Information in whole or in part.

11.6 **Care**. The Receiving Party shall exercise the same care in preventing unauthorized disclosure or use of the Confidential Information that it takes to protect its own information of a similar nature, but in no event less than reasonable care. SCTYL warrants having in place the required security measures to avoid loss or unauthorized access or use of the Confidential Information to be processed by SCYTL on behalf of the County under this Agreement.

11.7 **Return of Confidential Information and County Data**. Immediately upon the Disclosing Party's request, or at the expiration or earlier termination of this Agreement or any other applicable renewal or extension hereto, the Receiving Party shall return or destroy all materials containing Confidential Information, including without limitation, all originals, copies, reproductions and summaries, and all copies of Confidential Information present on magnetic media, optical disk, volatile memory or other storage device, in a manner that assures the Confidential Information is rendered unrecoverable. SCYTL agrees to provide County with a full copy of County Data within (5) business days of receipt by SCYTL of a written request from the County for the copy. SCYTL agrees to maintain full backups of County's historical County Data for ninety (90) days at any given time.

11.8 **Open Records or Public Information Act**. The parties acknowledge and agree that County is subject, as a matter of law, to Texas Government Code, Chapter 552, also known as the "Texas Open Records Act" or the "Texas Public Information Act" ("Public Information Act"). Notwithstanding

any other provision, including exemptions or exceptions to the Public Information Act, the parties agree that in the event that any provision of this Agreement, or other documents related to this Agreement, including, but not limited to, any exhibit, attachment, amendment, addendum, or other incorporated document, is in conflict with the Public Information Act, such provision shall be of no force or effect. Furthermore, it is expressly acknowledged and agreed that the County, County Commissioners Court, County Judge, Elected County Officials, County Department Heads and County Employees (hereinafter "County Requestors") may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any software, hardware, firmware, or any part thereof, or other equipment or item, data or information furnished to or in the possession or knowledge of County. It is further acknowledged and agreed that the County Requestors have the right and obligation by law to rely on the advice, decisions and opinions of the Texas Attorney General. SCYTL hereby releases the County Requestors from any and all liability or obligation of any type, kind or nature regarding any disclosure of any software, hardware, firmware, or any part thereof, or other equipment or item, data or information furnished by SCYTL or in the possession or knowledge of the County that is determined by County or in reliance on any advice, decision or opinion of the Texas Attorney General to be available to the public or any persons.

11.9 **Security.** SCYTL will comply with the security procedures that are in effect and duly communicated in advance by the County to SCYTL, during the Initial Term or any Renewal Term of this Agreement for the security of County's facilities and County Data. In the event that SCYTL personnel may have the ability to defeat systems security provisions on devices containing related and unrelated confidential information or data, SCYTL covenants that it shall not access such County data or information or assert waiver of these confidentiality requirements by virtue of SCYTL's access. SCYTL agrees that all County Data shall be stored in a data center physically located in the United States of America.

11.10 **Survival.** The provisions of this Article shall survive termination or expiration of this Agreement or any determination that this Agreement or any portion hereof is void, voidable, invalid or unenforceable.

ARTICLE 12.- WARRANTIES AND DISCLAIMERS

12.1. SCYTL represents and warrants that (i) the SOFTWARE will perform materially in accordance with the specifications and requirements of Appendix 1, 2, and 3 for the Subscription Term; (ii) the SOFTWARE will not contain any Malicious Code at the time of delivery to the County; (iii) SCYTL owns the rights in the SOFTWARE and Documentation to grant to the County the rights to use the SOFTWARE and Documentation granted herein; and (iv) to its knowledge, the SOFTWARE and Documentation do not infringe any intellectual property rights of any third party. SCYTL does not

warrant, however, that the County's use of the SOFTWARE will be uninterrupted and that the operation of the SOFTWARE will be error-free.

12.2. In the event of a breach during the applicable warranty period of one or more of the warranties set forth in Article 12.1 hereof, SCYTL shall use reasonable commercial efforts to correct such breach of the warranty. If SCYTL is unable to remedy the breach of warranty within a reasonable time as determined by the County, the County may terminate this Agreement in accordance with Article 8.4 and SCYTL shall refund the purchase price of the SOFTWARE.

12.3. The foregoing warranty is only applicable if SCYTL receives written notice of a breach of warranty within thirty (30) days after the end of the applicable warranty period. Such notice must contain sufficient information regarding the circumstances under which the warranty breach can be observed. The warranty shall not apply to the extent that the breach is caused by misuse, negligence, accident, unauthorized modification, alteration, customization or repair, improper operation or maintenance.

12.4. THE WARRANTIES SET OUT IN ARTICLE 12 HEREOF ARE THE ONLY WARRANTIES PROVIDED BY SCYTL AND THE REMEDIES SET OUT IN ARTICLE 12.2, ARTICLE 13, AND ARTICLE 8.4 HEREOF ARE THE SOLE AND EXCLUSIVE REMEDIES FOR A BREACH OF WARRANTY.

ARTICLE 13. INDEMNIFICATION

13.1 To the fullest extent authorized by law, SCYTL, including its assigns, subcontractors, officers, directors, employees, agents or representatives (collectively, "SCYTL") shall forever waive, release, indemnify and hold harmless County, its Commissioners, Judge, assigns, officers, directors, employees, agents, and representatives (collectively, "County") from and against any and all losses, damages, injuries (including death), causes of action, claims, demands, liabilities, judgments, suits, losses, damages, fines, assessments, penalties, adverse awards and expenses (whether based upon tort, breach of contract, patent, trademark or copyright infringement, or other intellectual property infringement, failure to pay employee taxes or withholdings, failure to obtain worker's compensation insurance, or otherwise), whether known or unknown, including, without limitation, legal and related legal fees and expenses, of any kind or nature arising out of or on account of, or resulting from (1) any actual or alleged intentional or negligent act or omission of, or default in the performance of, attempted performance of, or failure to perform, its obligations pursuant to this Agreement by SCYTL, (2) SCYTL's involvement in the specified services under this Agreement, (3) Any terms or conditions or provisions or underlying provisions of this Agreement, including but not limited to, any premises or special defect known or unknown to County, and any injury to

individuals present during SCYTL's involvement under the terms and conditions of the services and Agreement, including wilful acts such as assault, copyright, licensing and patent infringement relating to any software and/or equipment provided by SCYTL; and wrongful imprisonment or other intentional torts as a result of incorrect and/or scrambled information downloaded from any software and/or equipment provided by SCYTL, and (4) the selection, provision, misuse, use or failure to use, by SCTYL or any person or entity, of any medical devices, tools, supplies, materials, equipment, any other devices, tools, supplies, materials, equipment, or vehicles (whether owned or supplied by County, or any other person or entity) in connection said work or operations;

AND FURTHER, SCYTL, to the fullest extent allowed by law, agrees to waive, release, indemnify and hold harmless County against any and all losses, damages, injuries (including death), causes of action, claims, demands, liabilities, judgments, suits, fines, assessments, penalties, adverse awards and/or other expenses, of any kind or nature whatsoever (whether based upon tort, breach of contract, patent, trademark or copyright infringement, or other intellectual property infringement, failure to pay employee taxes or withholdings, failure to obtain worker's compensation insurance, or otherwise), including, without limitation, legal and related legal fees and expenses, of any kind or nature that are incurred by or sought to be imposed on County arising out of or on account of, or resulting from injury (including death), whether known or unknown, including, but not limited to, exposure to any disease, by any manner or method whatsoever, or damage to property (whether real, personal or inchoate), arising out of or in any way related (whether directly or indirectly, causally or otherwise) to the Agreement.

13.2. INTELLECTUAL PROPERTY INFRINGEMENT

To the fullest extent authorized by law, SCYTL including its assigns, subcontractors, officers, directors, employees, agents or representatives (collectively "SCYTL") shall defend, indemnify and hold the County, its Commissioners, Judge, assigns, officers, directors, employees, agents, and representatives (collectively "County") harmless against any loss, damage or costs (including reasonable legal fees) incurred in connection with claims, demands, suits, or proceedings made or brought against the County to the extent that it is based upon a claim that the use of the SOFTWARE and Documentation as contemplated hereunder infringes or misappropriates any patent, U.S. copyright, intellectual property right,, trade secret, or violates any other contract, license, grant, or other proprietary right of any third party (each an "Infringement Claim"); provided, that the County (a) promptly gives written notice of the Infringement Claim to SCYTL; (b) gives SCYTL sole control of the defense and settlement of the Infringement Claim (provided that SCYTL may not settle or defend any Infringement Claim

unless it unconditionally releases the County of all liability); and (c) without waiving any rights under sovereign immunity provides to SCYTL all reasonable assistance and information.

13.3. If (a) SCYTL becomes aware of an actual or potential Infringement Claim, or (b) the County provides SCYTL with notice of an actual or potential Infringement Claim, SCYTL may (or in the case of an injunction against the County, shall), at SCYTL' sole option and determination: (i) procure for the County the right to continue to use the SOFTWARE; or (ii) replace or modify the SOFTWARE with equivalent or better SOFTWARE so that the County's use is no longer infringing; or (iii) if (i) and (ii) are not commercially reasonable, as determined by SCYTL in its sole discretion, terminate the license(s) for such SOFTWARE and refund to the County that portion of any prepaid subscription fees that is applicable to the period following the termination of the Subscription pursuant to this Article 13, less any outstanding moneys owed on such affected portion of the SOFTWARE.

13.4. The indemnity in this Article does not extend to (1) any Infringement Claim based upon infringement or alleged infringement of any patent, trademark, copyright or other intellectual property right by the combination of the SOFTWARE furnished by SCYTL with other products, SOFTWARE or services not provided or approved by SCYTL, other than SOFTWARE designed by SCYTL with certain commercial hardware or other commercially available SOFTWARE, if such infringement would have been avoided but for such combination; (2) any Infringement Claim related to or in connection with any modification of the SOFTWARE by anyone other than SCYTL if such infringement would have been avoided but for such combination; (3) any Infringement Claim in respect to any version of the SOFTWARE other than the most current version; or (4) any use, distribution, sublicensing or exercise of any other right outside the scope of the licenses granted in this Agreement.

13.5. This Article 13 contains SCYTL's entire liability, and the County's sole and exclusive remedies, for Infringement Claims.

13.6 Approval and acceptance of SCYTL's services by County shall not constitute nor be deemed a release of the responsibility and liability of SCYTL for the accuracy and competency of their services; nor shall such approval and acceptance be deemed to be an assumption of such responsibility by the County for any defect, error or omission in the services performed by SCYTL in this regard. SCYTL shall defend, hold harmless and indemnify the County for damages resulting from such defects, errors or omissions. The County shall also not be liable for the accuracy or any unauthorized or unintended changes to the original information after it has been transmitted to SCYTL.

13.7 This Article 13 shall survive termination, expiration or cancellation of this Agreement or any determination that this Agreement or any portion hereof is void, voidable, invalid or unenforceable.

ARTICLE 14. COUNTY INDEMNIFICATION

No Indemnification by Dallas County. SCTYL acknowledges and agrees that Dallas County is prohibited by Article XI, Section 7 of the Texas Constitution from indemnifying it or any other third party for damages arising under this Agreement.

ARTICLE 15. INSURANCE

A.   Without limiting any of the other obligations or liabilities of SCYTL and each of its subcontractors, SCYTL agrees that it will have and maintain, and will require its subcontractors to have and maintain, at own expense, in full force and effect minimum insurance for themselves, including their officers, employees, agents, representatives, volunteers and subcontractors (collectively, "SCYTL") with companies approved by the State of Texas and satisfactory to the County.

B.   As a condition precedent to commencement of any work, within ten (10) calendar days after the Effective Date of this Agreement, SCYTL shall furnish to the Dallas County Director of Purchasing (at the same address given below under this Insurance heading) the following minimum insurance coverage that show the County as the certificate holder and covers the period of the Term of this Agreement and any renewals:

1)   Statutory Workers' Compensation Insurance

a.   Workers' compensation insurance that meets the requirements of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and the Texas Department of Insurance: Workers Compensation Commission ("TWCC") Rules, or if self-insured then SCYTL must provide to County evidence of a certificate issued by the Workers' Compensation Commission approving such self-insurance. If SCYTL has no employee (as defined by the Texas Workers' Compensation Act), SCYTL shall provide County with a sworn Affidavit in lieu of a Certificate of Insurance, which Affidavit shall be attached and incorporated into this Agreement by reference for all purposes, and which shall state that there is no employee. In the event that any work is subcontracted, SCYTL shall require the subcontractors to similarly provide Workers' Compensation Insurance for all of the subcontractors' employees, unless such employees are afforded protection by the SCYTL. SCYTL shall bear the burden of all workers' compensation coverage for all of its subcontractors and subcontractors' employees who do not have workers' compensation coverage. SCYTL also represents that the coverage will be based on proper reporting of classification codes and

payroll amounts, and that all coverage agreements will be filed with an appropriate insurance carrier, or in the case of self insurance with the Texas Department of Insurance: Workers' Compensation Division. Providing false or misleading information may subject SCYTL to administrative penalties, criminal penalties, civil penalties or other civil actions.

Types of Coverage	Limits of Liability
Workers' Compensation	Statutory
Employer's Liability	
Bodily injury by Accident	$500,000.00 Each Accident
Bodily injury by Disease	$500,000.00 Each Employee
Bodily injury by Disease	$500,000.00 Policy Limit

2)   Professional Liability Insurance or Errors and Omissions Insurance. SCYTL shall indemnify County for damages resulting from defects, errors or omissions and shall secure, pay for and maintain in full force and effect during the Term of this Agreement and any subsequent extensions hereto and thereafter for an additional two (2) years from the effective date of cancellation, termination or expiration of this Agreement or any subsequent extensions hereto, sufficient errors and omissions insurance in a minimum amount of One Million and 00/100 Dollars ($1,000,000.00) per occurrence with certificates of insurance evidencing such coverage to be provided to the County.

4)   Commercial General Liability Insurance, including Contractual Liability Insurance. SCYTL shall maintain Commercial General Liability Insurance coverage for the following: (a) Premises Operations; (b) Independent contractors or consultants; (c) Products/Completed operations; (d) Personal injury; (e) Contractual liability; (f) Explosion, collapse and underground; (g) Broad form property damage, to include fire legal liability. Such insurance shall carry a limit not less than One Million and 00/100 ($1,000,000.00) for bodily injury, property damage, and blanket contractual coverage per occurrence with a general aggregate of One Million and 00/100 ($1,000,000.00) and products and completed operations aggregate of One Million and 00/100 ($1,000,000.00). There shall not be any policy exclusion or limitations for personal injury, advertising liability, medical payments, fire damage, legal liability, broad form property damage, and/or liability for independent contractors and volunteers, or such additional coverage or increase in limits, including those contained within any bid specifications.

5)   Commercial Automobile Liability Insurance. Prior to using or causing to be used a motor vehicle other than a vehicle for hire (i.e. cab), SCYTL shall furnish to the County a certificate showing commercial automobile liability insurance covering all owned, hired and non-owned vehicles (excluding cabs) used in connection with the services performed under this Agreement, with the minimum limits of One Hundred Thousand and 00/100 Dollars ($100,000.00) each person and Three Hundred Thousand and 00/100 Dollars ($300,000.00) each accident for bodily injury and One Hundred Thousand and 00/100 Dollars ($100,000.00) each occurrence for property damage or a

combined single limit for bodily injury and property damage liability in a minimum amount of Four Hundred Thousand and 00/100 Dollars ($400,000.00).

C.   SCYTL agrees that, with respect to the above referenced insurance, all insurance contracts/policies will contain the following required provisions:

1)   Name County, its elected and appointed officials, employees and agents acting on its behalf as additional insureds (as the interest of each insured may appear) as to all applicable coverage.

2)   This insurance shall not be cancelled, limited in scope or coverage or non-renewed until after forty-five (45) calendar days prior written notice, or ten (10) calendar days for non-payment of premium, has been given by the insurance company to the County.

3)   Provide for an endorsement that the "other insurance" clause shall not apply to the County where the County is an additional insured on the policy.

4)   Provide for notice to the County to the person and at the address shown below by certified mail, return receipt requested, and full postage paid, sent to:

Dallas County Director of Purchasing
900 Jackson St., 6th Floor, Suite 680
Dallas, Texas   75202

5)   SCYTL agrees to waive subrogation, and each applicable policy of insurance shall state a waiver of subrogation, against County, including its elected officials, officers, employees, volunteers, agents and representatives, for injuries, including death, property damage and/or any other loss.

D.   SCYTL shall be solely responsible for all cost of any insurance as required here, any and all deductible amount or self-insured amount, which in no event shall exceed ten percent (10%) of the amount insured and in the event that an insurance company should deny coverage.

E.   It is the intent of these requirements and provisions that SCYTL's insurance covers all cost and expense so that the County, including its elected officials, officers, employees, volunteers, agents and representatives will not sustain any expense, cost, liability or financial risk as a result of the performance of services under this Agreement.

F.   Insurance certificates. The certificates of insurance shall list Dallas County as the certificate holder.   Any and all copies of Certificates of Insurance shall reference this Agreement, or any applicable RFP (Request for Proposal) number for which the insurance is being supplied.   All

insurance policies or duly executed certificates for the same required to be carried by SCYTL under this Agreement, together with satisfactory evidence of the payment of the premium thereof, shall be delivered to the Dallas County Director of Purchasing located at the 900 Jackson St., 6th Floor, Suite 680 Dallas, Texas 75202 within ten (10) calendar days of execution and/or renewal of this Agreement and upon renewals and/or material changes of such policies, but not less than fifteen (15) calendar days prior to the expiration of the term of such coverage, or such non-delivery shall constitute a default of this Agreement subject to immediate termination at County's sole discretion.

G.   All insurance coverage shall be on a per occurrence basis or a per claim basis if SCYTL provides for two (2) year tail coverage, unless specifically approved in writing and executed by the County's Director of Purchasing and Risk Manager.

H.   All insurance required to be carried by SCYTL and/or subcontractors under this Agreement shall be acceptable to the County in form and content, in its sole discretion. All policies shall be issued by an insurance company acceptable and satisfactory to County and authorized to do business in the State of Texas. Acceptance of or the verification of insurance by County shall not relieve or decrease the liability of the SCYTL.

I.   Minimum insurance is a condition precedent to any work performed under this Agreement and for the entire Initial Term of this Agreement, including any renewals or extensions. In addition to any and all other remedies County may have upon SCYTL's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, or such insurance lapses, is reduced below minimum requirements or is prematurely terminated for any reason, County shall have the right to:

1)   Order SCYTL to stop work hereunder, which shall not constitute a Suspension of Work;

2)   Withhold any payment(s) which become due to SCYTL until SCYTL demonstrates compliance with the requirements and assurance and proof acceptable to County that there is no liability to County for failure to provide such required insurance;

3)   At its sole discretion, declare a material breach of this Agreement, which, at County's discretion, may result in:

a)   termination of this Agreement;

b)   demand on any bond, as applicable;

c)   the right of the County to complete this Agreement by contracting with the "next low proposal." SCYTL will be fully liable for the difference between the original Agreement price and the actual price paid, which amount is payable to County by SCYTL on demand; or

d)   any combination of the above;

J.   Approval, disapproval or failure to act by the County regarding any insurance supplied by SCYTL shall not relieve SCYTL of full responsibility or liability for damages and accidents as set forth herein. Neither shall bankruptcy, insolvency or denial of liability by any insurance company exonerate the SCYTL from liability.

K.   Acceptance of the services, or failure to act by County shall not constitute nor be deemed a release of the responsibility and liability of SCYTL, its employees, associates, agents or subcontractors for the accuracy and competency of their services; nor shall such acceptance be deemed an assumption of responsibility or liability by County for any defect in the services performed by SCYTL, its employees, subcontractors, and agents.

L.   Nothing herein contained shall be construed as limiting in any way the extent to which SCYTL may be held responsible for payments of damages to persons or property resulting from SCYTL's or its subcontractor's performance of the work covered under this Agreement.

M.   Survival. The provisions of this Article shall survive termination or expiration of this Agreement or any determination that this Agreement or any portion hereof is void, voidable, invalid or unenforceable.

N.   Insurance Lapse. Pursuant to Section 94.73 of the Dallas County Code, if SCYTL fails to maintain the insurance required under this Agreement continuously at all times during the period stated in this Agreement, or otherwise has a lapse in any of the required insurance coverage, including workers' compensation coverage, SCYTL shall reimburse the County for any and all costs, including attorney's fees incurred by the County in curing said default. In the event of any insurance lapse, the County shall retain five percent (5%) of the value of the total Agreement Sum for a period of six (6) months from the date of the cure of the insurance lapse or the date the Agreement has ended, whichever is later, to cover the County's potential exposure to liability during the period of the insurance lapse. The five percent (5%) retainage shall be immediately deducted from any monies due to SCYTL by the County under this Agreement and held by the County for a period of six (6) months from the date of the cure of the insurance lapse or a period of six (6) months from the date this Agreement has terminated, expired, or otherwise ended, whichever is later. If no claims is received by or lawsuits filed against the County for any applicable matters, accidents or injuries that occurred during the lapse of insurance, the retainage shall be promptly returned to the SCYTL upon written

request. Notwithstanding the foregoing, in the event a claim is received by or lawsuit is filed against the County for applicable matters, accidents, or injuries that occurred during SCYTL's insurance lapse, the County shall use the retainage to defend, pay costs of defense, or settle any and all such claims, lawsuits, or judgments, with any and all amounts in excess of the retainage to be paid by SCYTL upon written demand by the County.

ARTICLE 16. NOTICES

16.1. All notices given pursuant to this Agreement shall be given personally or be sent by facsimile, e-mail or hand delivery; or by express delivery/courier service to a PARTY's address set forth in Articles 16.2 and 16.3, with all postage or other charges of conveyance prepaid and shall be effective upon the actual receipt thereof.

16.2. Unless and until otherwise notified to SCYTL, County's address for the purposes of this agreement shall be:

DALLAS COUNTY ELECTIONS DEPARTMENT

Dallas County Elections Department Dallas County Health and Human Resources Bldg.

2377 N. Stemmons Frwy. Suite 820

Dallas, Texas 75207

United States

Attention: Toni Pippins-Poole Dallas County Elections Administrator

E-mail: Toni.Pippins-Poole@dallascounty.org

Copy to:

Attn: Elections ADA

Dallas County Civil District Attorney's Office

411 Elm Street, 5th Floor

Dallas, TX 75202

16.3. Unless and until otherwise notified to the County, SCYTL's address for the purposes of this agreement shall be:

SOE SOFTWARE CORPORATION

5426 Bay Center Drive, Suite 525,

Tampa, FL 33609

Attention: Jonathan Brill

Email: jonathan.brill@scytl.com

c.c.:

Scytl Secure Electronic Voting S. A.

1-3 Plaça Gal·la Placídia

08006 Barcelona

Spain

Attention: Mrs. Silvia Caparrós de Olmedo

Email: silvia.caparros@scytl.com

ARTICLE 17 - OTHER PROVISIONS

17.1. **Cure.** Any failure by a Party to meet any of its obligations under this Agreement, must be brought to the other Party's attention, in writing. The defaulting Party shall have thirty (30) days after receiving such notification to cure such failure and meet its obligations.

17.2 **Termination of existing Agreements.** The parties acknowledge that by executing this Agreement, any existing contracts or agreements regarding the services and obligations herein are terminated and superseded by this Agreement.

17.3 **Entire Agreement and Amendment.** This Agreement, including any Exhibits and Attachments, constitutes the entire agreement between the parties and supersedes any other agreements concerning the subject matter of this transaction, whether oral or written. No modification, amendment, novation, renewal or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the Parties. Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in federal or state law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.

17.4 **Counterparts, number/gender and headings.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Words of any gender used in this Agreement shall be held and construed to include any other gender. Any words in the singular shall include the plural and vice versa, unless the context clearly requires otherwise. Headings are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.

17.5 **Severability.** If any provision of this Agreement is construed to be illegal, invalid, void or unenforceable, this construction will not affect the legality or validity of any of the remaining provisions. The unenforceable or illegal provision will be deemed stricken and deleted, but the remaining provisions shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

17.6   **Default/cumulative rights/mitigation**. It is not a waiver of default if the non-defaulting party fails to declare a default or delays in taking any action. Waiver of any term, covenant, condition or violation of this Agreement shall not be deemed or construed a waiver unless made in authorized written instrument, nor shall such waiver be deemed or construed a waiver of any other violation or breach of any of the terms, provisions, and covenants herein contained. The rights and remedies provided by this Agreement are cumulative, and either party's use of any right or remedy will not preclude or waive its right to use any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance or otherwise. Pursuit of any remedy provided in this Agreement shall not preclude pursuit of any other remedies herein provided or any other remedies provided by law or equity, including injunctive relief, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any obligation of the defaulting party hereunder or of any damages accruing by reason of the violation of any of the terms, provisions, and covenants herein contained. SCYTL has a duty to mitigate damages.

17.7   **SOVEREIGN IMMUNITY. This Agreement is expressly made subject to the County's Governmental Immunity, including, without limitation, Title 5 of the Texas Civil Practice and Remedies Code and all applicable State and federal laws. The parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability, or a waiver of any tort limitation, that the County has by operation of law, or otherwise. Nothing in this Agreement is intended to benefit any third-party beneficiary.**

17.8   **Compliance with laws and venue**. In providing services required by this Agreement, SCYTL must observe and comply with all licenses, legal certifications, or inspections required for the services, facilities, equipment, or materials, and all applicable federal, State, and local statutes, ordinances, rules, and regulations. Texas law shall govern this Agreement and venue shall lie exclusively in State and Federal Courts in Dallas County, Texas.

17.9 **Fiscal Funding Clause.** Notwithstanding any provisions contained in this Agreement, the obligations of the County under this Agreement are expressly contingent upon the availability of funding for each item and obligation for the Term of this Agreement and any pertinent extensions. SCYTL shall have no right of action against County in the event County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future fiscal years.   In the event that County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, or if funds become unavailable, County, at its sole discretion, may provide funds from a separate source or may terminate this Agreement by written notice to SCYTL at the earliest possible time prior to the end of its fiscal year.

Scytl

17.10 **Force Majeure.** Neither party shall be in default or responsible for delays or failures in performance resulting from causes beyond its control. Such acts include but are not limited to acts of God, fire, storm, flood, earthquake, natural disaster, nuclear accident, strike, air traffic disruption, lockout, riot, freight embargo, public regulated utility, or governmental statutes, orders, or regulations superimposed after the fact. Any party delayed by force majeure shall as soon as reasonably possible give the other party written notice of the delay. The party delayed shall use reasonable diligence to correct the cause of the delay, if correctable, and if the condition that caused the delay is corrected, the party delayed shall immediately give the other parties written notice thereof and shall resume performance under this Agreement as soon as practicable. The date of delivery or of performance shall be extended for at least a minimum time period equal to the time lost by reason of the delay.

17.11 **Contra Proferentum**. The doctrine of contra proferentum shall not apply to this Agreement. If an ambiguity exists in this Agreement, the Agreement shall not be construed against the party who drafted the Agreement and such party shall not be responsible for the language used.

17.12 **Assignment.** Neither Party may transfer or assign its interest in this Agreement without prior written consent of the non-assigning Party. County approval to transfer or assign SCYTL's interest in this Agreement is subject to formal approval by the Dallas County Commissioners Court.

17.13 **Continuing Obligations**. All obligations of this Agreement which expressly or by their nature survive the expiration, termination or transfer of this Agreement shall continue in full force and effect after and notwithstanding its expiration, termination or transfer until such are satisfied in full or by their nature expire.

17.14 **Relationship Of Parties**. SCYTL, including its agents, students or employees, is an independent contractor and not an agent, servant, joint enterpriser, joint venturer, or employee of the County, and is responsible for its own acts, forbearance, negligence and deeds, and for those of its agents, students or employees in conjunction with the performance of services covered under this Agreement. SCYTL represents that it has, or will secure at its own expense, all personnel and consultants required in performing the Services herein. Such personnel and consultants shall not be employees of or have any contractual relationship with the County.

17.15 **Subcontracting.** SCYTL may not enter into agreements with subcontractors for delivery of the designated services outlined in this Agreement without prior written consent of the County, which consent shall not be unreasonably withheld. The costs of all subcontracted services are included in the fees paid herein. Subcontracts, if any, entered into by SCYTL will be in writing and subject to all requirements herein. SCYTL agrees that it will solely be responsible to County for the performance of this Agreement. SCYTL shall pay all subcontractors in a timely manner. County shall have the right to prohibit SCYTL from using any subcontractor.

17.16   **Chapter 2270 Assurances**. Pursuant to Chapter 2270 of the Texas Government Code and applicable Federal law, SCYTL by executing this Agreement verifies and assures that it does not boycott Israel and shall not boycott Israel during the Initial Term or any Renewal Period of this Agreement.

17.17. **Title VI Non-Discrimination**. Assurances and Compliance. SCYTL agrees to comply with the respective Title VI assurances contained in "Exhibit A" attached hereto and incorporated herein by reference for all purposes.

17.18. **Form 1295 Compliance**. SCYTL acknowledges and agrees that they have fully, accurately, and completely disclosed all interested parties in the attached Form 1295 and have acknowledged the completeness of this disclosure by filing the Form 1295, attached as "Exhibit B", with the Texas Ethics Commission as required by law.

17.19   **Entire Contract**. This Agreement, including all Exhibits and attachments, constitutes the entire Agreement between the parties and supersedes any other Agreement concerning the subject matter of this transaction, whether oral or written. The following Appendixes and Exhibits are attached and incorporated herein for all purposes.
Appendix 1: Poll Worker Training SLA
Appendix 2: Election Night Reporting and Voter Education Portal SLA
Appendix 3: Cost Proposal
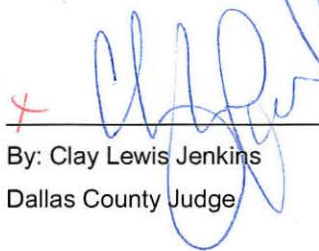Exhibit A: Title VI Non-Discrimination
Exhibit B: Form 1295

17.15 **Binding Effect**. This Agreement and the respective rights and obligations of the parties hereto shall inure to the benefit and be binding upon the successors and assigns of the parties hereto, as well as the parties themselves.

17.16   **Signatory Warranty**. SCYTL and County represent that each has the full right, power and authority to enter and perform this Agreement in accordance with all of the terms and conditions herein, and that the execution and delivery of this Agreement is made by authorized representatives of the parties to validly and legally bind the parties to all terms, performances and provisions set forth in this Agreement.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the Effective Date as defined herein.

DALLAS COUNTY, TEXAS:

By: Clay Lewis Jenkins
Dallas County Judge

SOE SOFTWARE CORPORATION

(d/b/a SCYTL):
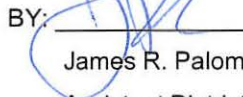
By: Jonathan Brill
General Manager North America

Recommended:

By: Toni Pippins Poole
Elections Administrator
Dallas County, Texas

APPROVED AS TO FORM*:

FAITH JOHNSON
DALLAS COUNTY
CRIMINAL DISTRICT ATTORNEY

RUSSELL RODEN
CHIEF, CIVIL DIVISION

BY:

James R. Palomo
Assistant District Attorney

*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

Appendix 1 – Poll Worker Training SLA

1 Software Maintenance and Support – Technical Service description

1.1 Definitions

The definitions used in the Agreement are incorporated herein by reference. In addition, the following terms shall have the following meaning:

- **"Software maintenance"** is defined as the process of modifying a software system or component after delivery to correct faults, errors and bugs, to improve performance or other attributes, or adapt to a changed environment.

- **"Perfective maintenance"** includes modifications and upgrades done in order to keep the software usable over a long period of time. It includes new features and new user requirements for refining the software and improving its reliability and performance.

- **"Adaptive maintenance"** includes modifications and upgrades applied to keep the software product up-to date and tuned to the changing environment.

- **"Preventive maintenance"** includes modifications and upgrades to prevent future issues of the software. It aims to attend problems, which are not significant at this moment but may cause serious issues in future.

- **"Corrective maintenance"** includes modifications and upgrades done in order to correct or fix faults, errors and bugs, which are either discovered by the County or concluded by user error reports.

- **"Content development"** includes additional development effort to build new training content or to make requested changes to existing training content which is requested by the County.

- **Response time** means the time elapsing between the reporting of an Issue by a County and the response from a Scytl's Technical Support Services engineer acknowledging receipt of the reported Issue.

- **Diagnosis time** means the time elapsing between the Response time and the diagnosis of the Issue made by Scytl's Technical Support Services.

- **"Issue"** means either
  a) A failure of the Software to conform to the specifications set out in the documentation relating to that version of the Software, resulting in the inability to use, or restriction in the use of the Software, or
  b) A problem in current features requiring new procedures, clarifications, additional information and/or requests for product enhancements.

- **"Resolution or patch or Bug Fix"** means either a software modification or addition that, when made or added to the Software, corrects an Issue, or a procedure or routine that, when observed in the regular installation or operation of the Software, eliminates the practical adverse effect of the issue on you.

- **"Commercially reasonable effort"** means efforts that are designed to enable a Party, directly or indirectly, to satisfy a condition to, or otherwise assist in the consummation of the Contract and that do not require the performing Party to expend any funds or assume Liabilities other than expenditures and Liabilities that are customary and reasonable in nature and amount in the context of the Contract.

- **"Upgrade"** means a revision or change of version of the Software released by Scytl to its end user customers generally, during the Support Services Term, to add new and different functions or to increase the capacity of the Software.

- **"Maintenance Release"** is a release of or for the Software that includes the most recent Patches and Upgrades.

- **"Current Software Version"** means the most recently released commercially available version of the Software at the time a County Support Contact relates a particular support incident to Scytl hereunder.

- **"Supported Versions"**. SCYTL' obligations with respect to the Maintenance Services shall apply only to those versions of the Software that are within one (1) year time frame of Current Software Version.

- **"Hosted System"** means Software hosted by Scytl externally in its data center to which the County may access it over the internet from anywhere at any time.

1.2   General Terms and Conditions

The County shall be entitled to the following Support and Maintenance services during the Term and upon payment of the Fee:

1. **Scytl Technical Services.** Scytl Support and Maintenance Services include Perfective, adaptive, preventive and corrective maintenance in relation to Supported Versions. The Support Services do not include any post-installation configuration or development support, such as integrations of the Software with the user or third-party developed software or data, configuration advice that is not related to initial installation and setup, or non-bug related technical problem resolution.

2. **Scytl Content Development Services.** Scytl Support and Maintenance Services for Election Training includes 20 hours of effort for additional content development or changes to existing content as requested by the County. These development hours are intended to ensure the County's content is up-to-date with their processes and requirements. The County will request changes to the training content, upon which time, an estimate of the effort required to implement the changes and the timeframe required will be completed by Scytl and communicated to the County. Up to 20 hours of content development effort is included per year and any effort above 20 hours will be estimated as a change request and assessed a per hour fee. As content

development does not reflect a bug or business critical error in the system, the severity levels and service timelines below do not apply. The Scytl team will coordinate with the County to identify an acceptable timeframe to complete any content development effort.

3. **Resolutions and Severity levels.** Scytl will make commercially reasonable efforts to provide a Resolution or Patch designed for resolving a reported issue in accordance with the Service Schedule hereto. If such issue has been resolved or corrected already in an existing Maintenance Release, the County must install and implement that Maintenance Release/Upgrade; otherwise, the resolution for critical and high severity issues may be provided in the form of a temporary patch (fix, procedure or routine) to be used until a Maintenance Release containing the resolution is available. The priority level shall be agreed between the parties following the priority levels described below:

Severity	Description	Details
CRITICAL	An immediate and sustained effort using all available resources until issue is resolved.	• Business critical function is down • Major impact to County's business • No workarounds exist
HIGH	Technicians respond immediately, assess the situation and may interrupt other staff working low or medium priority jobs for assistance.	• Business critical function is impaired or degraded • There are time-sensitive issues that impact on-going production • Workaround exists, but it is only temporary
MEDIUM	Responding using standard procedures and operating within normal Management structures.	• Non-critical function down or impaired • Does not have significant current production impact • Performance is degraded
LOW	Responding using standard operating procedures and as time allows.	• Non-critical, function down or impaired • No business impact • Generic Service Enhancements

4. **Technical Support Contacts.** Scytl Maintenance and Support Services will be accessible by one (1) designated contact (Technical Support Contact) and one (1) back up contact. You may modify your designated Technical Support Contact at any time during the terms of the service by confirmed email to Scytl's Technical Support Contact, who will be the only interface to the Scytl Maintenance and Support Services.

5. **Exclusions from Scytl's Technical Services.** Scytl is not obligated to provide Technical Services in the following situations:

a) When Scytl determines that the Issue, is caused by unauthorized changes or modifications to the Software provided by Scytl, resulting in malfunctioning of the Software. This is not applicable if the changes or modifications are made under the direct supervision of Scytl;

b) The Software has been damaged through negligent use by the County.

c) The issue is caused by the negligence, hardware, malfunction or other causes beyond the reasonable control of Scytl;

d) The issue is caused by third party software not licensed by or through Scytl;

e) The County has not installed and implemented a prior Upgrade or Maintenance Release; or

f) The County has not paid the Technical Services fees when due;

g) The version of the Software that the County is using is not a Supported Version;

h) If the County has not complied with Scytl's license Agreement;

i) Failures related to an accident, disaster or other Force Majeure event;

6. **Agreement in Force.** Except as agreed herein, all other terms and conditions of the Agreement shall apply with full force and effect to this Service Level Agreement.

1.3   Escalation Process

For each Issue:

1. The County's Technical Support Contact will notify the Issue through the agreed channels;

2. A Scytl's Technical Support Services engineer will data the reception of the Issue;

3. A Scytl's Technical Support Services will do an initial diagnosis and complete the incident details in the Incident Management Tool:

   - Services affected;

   - Level of disruption;

   - Cause of the incident;

   - Estimated time to resolve it;

   - Feasible workaround.

4. The Scytl's Technical Support Engineer will contact County's Technical Support Contact providing the diagnosis and incident identifier and will agree on a *Criticality Level* based on a predefined set of criteria;

5. The Scytl's Technical Support Engineer will provide regular updates on the incident status;

1.4   Service Level Agreements (SLAs)

Scytl's Software Support and Maintenance Service is divided into different sub-services:

   - Service Management (Normal Service);

   - Election Period Support and Issue Response;

   - Planned Maintenance Service and Technical Support;

   - Hosting.

Further details are provided below.

1.4.1   Service Management (Normal Service)

1.4.1.1   Service Description

To guarantee a smooth and efficient relationship between Scytl and their partners, Scytl assigns a Service Manager (Account Manager) who will be the main point of contact to coordinate the regular maintenance and support activities.

The Service Manager will regularly report on the different activities performed as well as the status of the contracted pools of support hours (if any).

What is included	• Single Point of Contact (SPOC)
What is not included	• Project Management activities for Electoral Events

1.4.1.2   Service details

Service hours	Monday to Friday from 9 AM to 5 PM ET
After hours support	On-call staff can be reached via the support telephone and/or support email.
Response time	Dependent on issue priority (see section 1.4.2.1)

1.4.2   Election Period Support and Issue Response

1.4.2.1   Service Description

The County shall notify Scytl of planned elections as soon as possible. In the event the Hosted System fails to perform as required by this Agreement (an "Issue"), the following Issue Response Procedure shall apply: County will notify Scytl of any identified Issue as soon as possible. County will also provide the reasonable availability of a single point of contact to assist Scytl in resolving any Issue with the Software. Upon notification of an Issue, County and Scytl by mutual agreement in good faith shall classify the severity of the Issue based on the levels detailed in Section 1.2. Scytl shall follow up with County with a telephone call or email response within 30 minutes upon notification of an Issue, subject to the Issue levels below. During the follow-up telephone or email, Scytl shall provide County with an initial assessment with a detailed explanation of the Issue in conjunction with the necessary steps for the parties to mitigate the Issue. .

Severity	**Response Time**
Critical Priority	0-30 minutes (during business hours)
High Priority	Within 2 hours
Medium Priority	Within 24 hours

Low Priority	Within 5 working days

1.4.2.2 Service Details

1.4.2.2.1 Normal Service Availability

Service hours	Monday to Friday from 9 AM to 5 PM CST (Central Time)
After hours support	On-call staff can be reached via the support telephone and/or support email.
Response time	Dependent on issue priority (see section 1.4.2.1)
Diagnosis time	Dependent on issue priority (see section 1.4.2.1)
Out of Service Hours Response	Calls received outside of Service Support Hours will be forwarded to the on-call service manager's mobile telephone and best efforts will be made to respond to the call based on the issue priority.
Service volume	See Appendix 1: Section 1.2
Rules of use	• In the event of consuming the whole bundle of hours, an additional pool of hours could be purchased; • Refunds or carry over are not considered if the pool of hours is not consumed at the end of the Agreement (and on a yearly basis).

1.4.2.2.2 Fifty Days Prior to an Election

Service hours	Monday to Friday from 7 AM to 10:00 PM CST (Central Time)
After hours support	On-call staff can be reached via the support telephone and/or support email.
Response time	Dependent on issue priority (see section 1.4.2.1)
Diagnosis time	Dependent on issue priority (see section 1.4.2.1)
Out of Service Hours Response	Calls received outside of Service Support Hours will be forwarded to the on-call service manager's mobile telephone and best efforts will be made to respond to the call. Email support (product.support@scytl.com) will be monitored every thirty minutes between 7:00 A.M. to 10:00 P.M., Monday through Friday, Central Standard Time. Emails received outside of this time frame will receive a response in accordance with the priority of the reported Issue.
Service volume	See Appendix 1: Section 1.2

Rules of use	• In the event of consuming the whole bundle of hours, an additional pool of hours could be purchased; • Refunds or carry over are not considered if the pool of hours is not consumed at the end of the Agreement (and on a yearly basis).

1.4.3 Planned Maintenance Service and Technical Support

1.4.3.1 Service Description – Planned Maintenance

Scytl is responsible for guaranteeing the quality of the Software provided under the Agreement as well as facilitating the inclusion of new features as a result of a product evolution. Upon a **Maintenance Release**, Scytl guarantees the data integration for the **Supported Versions**.

What is included	• Perfective maintenance; • Adaptive maintenance; • Preventive maintenance (including updates such as digital certificates); • Corrective maintenance;
What is not included	• Extension of any existing functionality, which should be handled via the Change Management process; • The development of any new functionality, which should be handled via the Change Management process.

1.4.3.2 Service details – Planned Maintenance

Service hours	Monday to Friday from 9 AM to 5 PM CST Maintenance activities may be planned as after-hours service or during the weekends as agreed the County
Response time	Within 2 working days
Diagnosis time	• Critical and High severity issues - Within 8 service hours • Medium severity issues - Within 16 service hours

1.4.3.3 Service Description – Specialized Technical Support Service

Scytl provides specialized technical support for those software components embedded in the provided solution The Specialized Technical Support includes responses to technical questions and providing technical support during maintenance or testing activities[1]. The support service will be handled through the defined Technical Support Contacts.

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[1] Technical support during specific electoral processes is an optional service that is not included under this service

What is included	• Response to technical questions related to the products making up the solution; • Deployment or support to the deployment on the Licensee's infrastructures after a Maintenance Release; • Ad-hoc digital signature of applications after a Maintenance Release; • Ad-hoc Trusted Build activities after a Maintenance Release.
What is not included	• Support on solution configuration for specific electoral processes.

1.4.3.4 Service details – Specialized Technical Support Service

Service hours	Monday to Friday from 9 AM to 5 PM CST
Response time	Within 2 working days
Diagnosis time	Within 3 working days
Service volume	Annual pool of hours (see proposal/contract).

1.4.4 Hosting

Scytl is responsible for new releases, security, maintenance and up time and will provide the County with the following services:

a. Hosting of the Software in Scytl' servers in an Amazon Data Center rented by Scytl located in the US and providing the County access to the hosted SOFTWARE seven (7) days per week, twenty four (24) hours per day except for scheduled maintenance.

b. Installation, test and initial system set up in the servers in the Data Center.

Scytl will provide the County with the following support and service level:

a. Availability of 99.9% uptime (excluding scheduled maintenance windows).

b. Full infrastructure and network redundancy using distributed cloud locations.

c. Reporting tools will be available upon request to show historic data.

Appendix 2 – Election Night Reporting and Voter Education Portal SLA

1 Software Maintenance and Support – Technical Service description

1.1 Definitions

The definitions used in the Agreement are incorporated herein by reference. In addition, the following terms shall have the following meaning:

- "**Software maintenance**" is defined as the process of modifying a software system or component after delivery to correct faults, errors and bugs, to improve performance or other attributes, or adapt to a changed environment.

- "**Perfective maintenance**" includes modifications and upgrades done in order to keep the software usable over a long period of time. It includes new features and new user requirements for refining the software and improving its reliability and performance.

- "**Adaptive maintenance**" includes modifications and upgrades applied to keep the software product up-to date and tuned to the changing environment.

- "**Preventive maintenance**" includes modifications and upgrades to prevent future issues of the software. It aims to attend problems, which are not significant at this moment but may cause serious issues in future.

- "**Corrective maintenance**" includes modifications and upgrades done in order to correct or fix faults, errors and bugs, which are either discovered by the County or concluded by user error reports.

- "**Content development**" includes additional development effort to build new training content or to make requested changes to existing training content which is requested by the County.

- **Response time** means the time elapsing between the reporting of an Issue by a County and the response from a Scytl's Technical Support Services engineer acknowledging receipt of the reported Issue.

- **Diagnosis time** means the time elapsing between the Response time and the diagnosis of the Issue made by Scytl's Technical Support Services.

- "**Issue**" means either
  a) A failure of the Software to conform to the specifications set out in the documentation relating to that version of the Software, resulting in the inability to use, or restriction in the use of the Software, or
  b) A problem in current features requiring new procedures, clarifications, additional information and/or requests for product enhancements.

- **"Resolution or patch or Bug Fix"** means either a software modification or addition that, when made or added to the Software, corrects an Issue, or a procedure or routine that, when observed in the regular installation or operation of the Software, eliminates the practical adverse effect of the issue on you.

- **"Commercially reasonable effort"** means efforts that are designed to enable a Party, directly or indirectly, to satisfy a condition to, or otherwise assist in the consummation of the Contract and that do not require the performing Party to expend any funds or assume Liabilities other than expenditures and Liabilities that are customary and reasonable in nature and amount in the context of the Contract.

- **"Upgrade"** means a revision or change of version of the Software released by Scytl to its end user customers generally, during the Support Services Term, to add new and different functions or to increase the capacity of the Software.

- **"Maintenance Release"** is a release of or for the Software that includes the most recent Patches and Upgrades.

- **"Current Software Version"** means the most recently released commercially available version of the Software at the time a County Support Contact relates a particular support incident to Scytl hereunder.

- **"Supported Versions"**. SCYTL' obligations with respect to the Maintenance Services shall apply only to those versions of the Software that are within one (1) year time frame of Current Software Version.

- **"Hosted System"** means Software hosted by Scytl externally in its data center to which the County may access it over the internet from anywhere at any time.

1.2   General Terms and Conditions

The County shall be entitled to the following Support and Maintenance services during the Term and upon payment of the Fee:

1. **Scytl Technical Services.** Scytl Support and Maintenance Services include Perfective, adaptive, preventive and corrective maintenance in relation to Supported Versions. The Support Services do not include any post-installation configuration or development support, such as integrations of the Software with the user or third-party developed software or data, configuration advice that is not related to initial installation and setup, or non-bug related technical problem resolution.

2. **Operational Support:** Unlimited telephone or electronic mail support monthly directed at providing County with operational support with respect to the use and operation of the software programs licensed to County by SOE in accordance with the software license agreement(s) between the parties.   Unlimited support shall not include training, or any other method of educating County or County's employees on the Software.

3. **Resolutions and Severity levels.** Scytl will make commercially reasonable efforts to provide a Resolution or Patch designed for resolving a reported issue in accordance with the Service Schedule hereto. If such issue has been resolved or corrected already in an existing Maintenance

Release, the County must install and implement that Maintenance Release/Upgrade; otherwise, the resolution for critical and high severity issues may be provided in the form of a temporary patch (fix, procedure or routine) to be used until a Maintenance Release containing the resolution is available. The priority level shall be agreed between the parties following the priority levels described below:

Severity	Description	Details
CRITICAL	An immediate and sustained effort using all available resources until issue is resolved.	• Business critical function is down • Major impact to County's business • No workarounds exist
HIGH	Technicians respond immediately, assess the situation and may interrupt other staff working low or medium priority jobs for assistance.	• Business critical function is impaired or degraded • There are time-sensitive issues that impact on-going production • Workaround exists, but it is only temporary
MEDIUM	Responding using standard procedures and operating within normal Management structures.	• Non-critical function down or impaired • Does not have significant current production impact • Performance is degraded
LOW	Responding using standard operating procedures and as time allows.	• Non-critical, function down or impaired • No business impact • Generic Service Enhancements

4. **Technical Support Contacts.** Scytl Maintenance and Support Services will be accessible by one (1) designated contact (Technical Support Contact) and one (1) back up contact. You may modify your designated Technical Support Contact at any time during the terms of the service by confirmed email to Scytl's Technical Support Contact, who will be the only interface to the Scytl Maintenance and Support Services.

5. **Exclusions from Scytl's Technical Services.** Scytl is not obligated to provide Technical Services in the following situations:

   j) When Scytl determines that the Issue, is caused by unauthorized changes or modifications to the Software provided by Scytl, resulting in malfunctioning of the Software. This is not applicable if the changes or modifications are made under the direct supervision of Scytl;

   k) The Software has been damaged through negligent use by the County.

   l) The issue is caused by the negligence, hardware, malfunction or other causes beyond the reasonable control of Scytl;

   m) The issue is caused by third party software not licensed by or through Scytl;

   n) The County has not installed and implemented a prior Upgrade or Maintenance Release; or

o) The County has not paid the Technical Services fees when due;

p) The version of the Software that the County is using is not a Supported Version;

q) If the County has not complied with Scytl's license Agreement;

r) Failures related to an accident, disaster or other Force Majeure event;

6. **Standard Updates:** Delivery of all standard updates where applicable, exclusive of County unique modules, to the Software that SOE makes generally available without charge to its other maintenance customers during the term of this Agreement. Such updates shall be considered Software and shall be governed by the software license agreement between the parties with respect to the Software which the update relates.

7. **Agreement in Force.** Except as agreed herein, all other terms and conditions of the Agreement shall apply with full force and effect to this Service Level Agreement.

1.3 Escalation Process

For each Issue:

1. The County's Technical Support Contact will notify Scytl of the Issue through the agreed channels;

2. A Scytl's Technical Support Services engineer will acknowledge the reception of the Issue;

3. A Scytl's Technical Support Services will do an initial diagnosis and complete the incident details in the Incident Management Tool:

   - Services affected;

   - Level of disruption;

   - Cause of the incident;

   - Estimated time to resolve it;

   - Feasible workaround.

4. The Scytl's Technical Support Engineer will contact County's Technical Support Contact providing the diagnosis and incident identifier and will agree on a *Criticality Level* based on a predefined set of criteria;

5. The Scytl's Technical Support Engineer will provide regular updates on the incident status;

1.4 Service Level Agreements (SLAs)

Scytl's Software Support and Maintenance Service is divided into different sub-services:

   - Service Management (Normal Service);

   - Solution Maintenance

   - Specialized Technical Support

   - Election Period Support and Issue Response;

   - Hosting.

Further details are provided below.

1.4.1 Service Management (Normal Service)

1.4.1.1 Service Description

To guarantee a smooth and efficient relationship between Scytl and their partners, Scytl assigns a Service Manager (Account Manager) who will be the main point of contact to coordinate the regular maintenance and support activities.

The Service Manager will regularly report on the different activities performed as well as the status of the contracted pools of support hours (if any).

What is included	• Single Point of Contact (SPOC)
What is not included	• Project Management activities for Electoral Events

1.4.1.2 Service details

Service hours	Monday to Friday from 8 AM to 5 PM CST
After hours support	On-call staff can be reached via the support telephone and/or support email.
Response time	Dependent on issue priority (see section 1.4.2.1)

1.4.2 Election Period Support and Issue Response

1.4.2.1 Service Description

The County shall notify Scytl of planned elections as soon as possible. In the event the Hosted System fails to perform as required by this Agreement (an "Issue"), the following Issue Response Procedure shall apply: County will notify Scytl of any identified Issue as soon as possible. County will also provide the reasonable availability of a single point of contact to assist Scytl in resolving any Issue with the Software. Upon notification of an Issue, County and Scytl by mutual agreement in good faith shall classify the severity of the Issue based on the levels detailed in Section 1.2. Scytl shall follow up with County with a telephone call or email response within 30 minutes upon notification of an Issue, subject to the Issue levels below. During the follow-up telephone or email, Scytl shall provide County with an initial assessment with a detailed explanation of the Issue in conjunction with the necessary steps for the parties to mitigate the Issue.

Severity	Response Time
High Priority	0-30 minutes (during business hours)
Medium Priority	Within 24 hours
Low Priority	Within 5 working days

1.4.2.2 Service Details

1.4.2.2.1 Normal Service Availability

Service hours	Monday to Friday from 9 AM to 5 PM CST (Central Time)
After hours support	On-call staff can be reached via the support telephone and/or support email.
Response time	Dependent on issue priority (see section 1.4.2.1)
Diagnosis time	Dependent on issue priority (see section 1.4.2.1)
Out of Service Hours Response	Calls received outside of Service Support Hours will be forwarded to the on-call service manager's mobile telephone and best efforts will be made to respond to the call based on the issue priority.
Service volume	See Appendix 1: Section 1.2
Rules of use	• In the event of consuming the whole bundle of hours, an additional pool of hours could be purchased; • Refunds or carry over are not considered if the pool of hours is not consumed at the end of the Agreement (and on a yearly basis).

1.4.2.2.2 Fifty Days Prior to an Election

Service hours	Monday to Friday from 7 AM to 10:00 PM CST (Central Time)
After hours support	On-call staff can be reached via the support telephone and/or support email.
Response time	Dependent on issue priority (see section 1.4.2.1)
Diagnosis time	Dependent on issue priority (see section 1.4.2.1)
Out of Service Hours Response	Calls received outside of Service Support Hours will be forwarded to the on-call service manager's mobile telephone and best efforts will be made to respond to the call. Additionally, Scytl shall provide a backup contact telephone number on a weekly basis to County via email every Monday. Email support (product.support@scytl.com) will be monitored every thirty minutes between 7:00 A.M. to 10:00 P.M., Monday through Friday, Central Standard Time. Emails received outside of this time frame will receive a response in accordance with the priority of the reported Issue.
Service volume	See Appendix 1: Section 1.2
Rules of use	• In the event of consuming the whole bundle of hours, an additional pool of hours could be purchased; • Refunds or carry over are not considered if the pool of hours is not consumed at the end of the Agreement (and on a yearly basis).

1.4.2.2.3 Early Voting Periods (14 days prior to Election)

Service hours	Monday to Saturday from 6 AM to 11:59 PM CST (Central Time)
After hours support	On-call staff can be reached via the support telephone and/or support email.
Response time	Dependent on issue priority (see section 1.4.2.1)
Diagnosis time	Dependent on issue priority (see section 1.4.2.1)
Out of Service Hours Response	Calls received outside of Service Hours will be forwarded to the on-call service manager's mobile telephone and best efforts will be made to respond to the call. Email support (product.support@scytl.com) will be monitored continuously between 6:00 A.M. and 11:59 P.M., Monday through Saturday, Central Standard Time. Emails received outside of this time frame will receive a response in accordance with the priority of the reported Issue
Service volume	See Appendix 1: Section 1.2
Rules of use	- In the event of consuming the whole bundle of hours, an additional pool of hours could be purchased; - Refunds or carry over are not considered if the pool of hours is not consumed at the end of the Agreement (and on a yearly basis).

1.4.2.2.4 Election Day

Service hours	12 hours prior to voting polls opening and 24 hours after polls close. Scytl shall provide telephone support to County continuously during this time frame. Calls not answered immediately will be placed in a queue for immediate response and assistance.
After hours support	On-call staff can be reached via the support telephone and/or support email.
Response time	Dependent on issue priority (see section 1.4.2.1)
Diagnosis time	Dependent on issue priority (see section 1.4.2.1)
Out of Service Hours Response	Email support (product.support@scytl.com) will be continuously monitored during this time frame. Emails will receive a response in accordance with the priority of the reported Issue.
Service volume	See Appendix 1: Section 1.2

Rules of use	• In the event of consuming the whole bundle of hours, an additional pool of hours could be purchased;
	• Refunds or carry over are not considered if the pool of hours is not consumed at the end of the Agreement (and on a yearly basis).

1.4.3 Scytl Voter Education Portal Support

Scytl Voter Education Portal support shall be provided on the same timeframe as those described in Section 1.4.2.2, Service Details. For an issue related to the County Elections Department Website (Scytl Voter Education Portal), Scytl shall take the following steps to resolve an Issue:

a. Within 15 minutes of notification of an Issue, Scytl will redirect County to a mirrored website.

b. If a mirror website is unavailable or fails, County's Uniform Resource Locator ("URL") will be redirected to another website at the County's direction within 15 minutes.

c. The mirrored website will be synced once every 24 hours by Scytl.

d. On Election Day, Scytl will sync the mirrored website at 2 A.M., Central Standard Time.

e. The current election results file will be manually uploaded to the mirrored site by Scytl in the case of a disaster recovery situation. (Scytl ENR Software).

f. Scytl will manually update Voter Education Portal database(s) to the mirrored website to account for any database updates made on Election Day prior to a disaster recovery situation.

1.4.4 Additional Services

The services displayed above do not constitute optional premium support services. The County may request Scytl to perform services of a different nature than, or beyond the scope of those described above. Such services may include, but are not limited to:

1. Retrieval of data lost by hardware malfunction or operator error.

2. Retrieval of data lost by power failure.

3. Designing, programming, or testing of Software enhancements.

4. Problem diagnosis of Software problems where the Software enhancement or change was developed by County.

5. Changes required to County unique modifications to interface with updates to the standard version of the Software.

6. Training and instruction (other than what is provided with normal implementation).

7. System tuning, configuration and reconfiguration.

8. Repair of data which is damaged due to County's improper use of the system, including but not limited to County's direct modification of date in the database.

1.4.5 Planned Maintenance Service and Technical Support

1.4.5.1 Service Description – Planned Maintenance

Scytl is responsible for guaranteeing the quality of the Software provided under the Agreement as well as facilitating the inclusion of new features as a result of a product evolution. Upon a **Maintenance Release**, Scytl guarantees the data integration for the **Supported Versions**. Scytl will notify the County for all scheduled maintenance of the Software in a prompt manner.

What is included	• Perfective maintenance;
	• Adaptive maintenance;
	• Preventive maintenance (including updates such as digital certificates);
	• Corrective maintenance;
What is not included	• Extension of any existing functionality, which should be handled via the Change Management process;
	• The development of any new functionality, which should be handled via the Change Management process.

1.4.5.2 Service details – Planned Maintenance

Service hours	Monday to Friday from 9 AM to 5 PM CST
	Maintenance activities may be planned as after-hours service or during the weekends as agreed the County
Response time	Within 2 working days
Diagnosis time	• Critical and High severity issues - Within 8 service hours
	• Medium severity issues - Within 16 service hours

1.4.5.3 Service Description – Specialized Technical Support Service

Scytl provides specialized technical support for those software components embedded in the provided solution The Specialized Technical Support includes responses to technical questions and providing technical support during maintenance or testing activities[2]. The support service will be handled through the defined Technical Support Contacts.

What is included	• Response to technical questions related to the products making up the solution;
	• Deployment or support to the deployment on the Licensee's infrastructures after a Maintenance Release;
	• Ad-hoc digital signature of applications after a Maintenance Release;
	• Ad-hoc Trusted Build activities after a Maintenance Release.
What is not included	• Support on solution configuration for specific electoral processes.

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[2] Technical support during specific electoral processes is an optional service that is not included under this service

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1.4.5.4 Service details – Specialized Technical Support Service

Service hours	Monday to Friday from 9 AM to 5 PM CST
Response time	Within 2 working days
Diagnosis time	Within 3 working days
Service volume	See Appendix 1: Section 1.2

1.4.6 Hosting

Scytl is responsible for new releases, security, maintenance and up time and will provide the County with the following services:

a. Hosting of the Software in Scytl' servers in an Amazon Data Center rented by Scytl located in the US and providing the County access to the hosted SOFTWARE seven (7) days per week, twenty four (24) hours per day except for scheduled maintenance.

b. Installation, test and initial system set up in the servers in the Data Center.

Scytl will provide the County with the following support and service level:

a. Availability of 99.9% uptime (excluding scheduled maintenance windows).

b. Full infrastructure and network redundancy using distributed cloud locations.

Reporting tools will be available upon request to show historic data.

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Appendix 3 — Cost Proposal

Voter Education Portal

Product/Service	Term	Fee	Invoicing Date
Voter Education Redesign	N/A*	$13,199.00	December 1, 2018
Voter Education Annual Assurance	July 1, 2018 – December 31, 2018	$15,538.00	Upon signature
Voter Education Annual Assurance	January 1, 2019 – December 31, 2019	$31,076.00	December 1, 2018
Voter Education Annual Assurance	January 1, 2020 – December 31, 2020	$31,076.00	December 1, 2019
Voter Education Annual Assurance	Option Year 1: January 1, 2021 – December 31, 2021	$31,076.00	December 1, 2020
Voter Education Annual Assurance	Option Year 2: January 1, 2022 – December 31, 2022	$31,076.00	December 1, 2021

*Commence January 1, 2019

**Prices reflect a 35% discount for long term customers

Election Night Reporting

Product/Service	Term	Fee	Invoicing Date
ENR Web02 Upgrade	N/A*	$10,000.00	Upon signature
ENR Annual Assurance	January 1, 2019 – December 31, 2019	$27,000.00	December 1, 2018
ENR Annual Assurance	January 1, 2020 – December 31, 2020	$27,000.00	December 1, 2019
ENR Annual Assurance	Option Year 1: January 1, 2021 – December 31, 2021	$27,000.00	December 1, 2020
ENR Annual Assurance	Option Year 2: January 1, 2022 – December 31, 2022	$27,000.00	December 1, 2021

*Commence upon contract signature

**Prices reflect a 35% discount for long term customers

Online Poll Worker Training

Product/Service	Term	Fee	Invoicing Date
Online Poll Worker Training Redevelopment*		See below	See below
Content Design	Optional: Contingent on DCE purchase of new election equipment	$27,700.00	Upon request from DCE post-election equipment procurement*
Video Shoot	Optional: Contingent on DCE purchase of new election equipment. Covers DCE election processes and equipment.	$5,067.00	Upon request from DCE post-election equipment procurement*
Online Poll Worker Training	January 1, 2019 – December 31, 2019	$29,500.00	December 1, 2018
Online Poll Worker Training	January 1, 2020 – December 31, 2020	$29,500.00	December 1, 2019
Online Poll Worker Training	Option Year 1: January 1, 2021 – December 31, 2021	$29,500.00	December 1, 2020
Online Poll Worker Training	Option Year 2: January 1, 2022 – December 31, 2022	$29,500.00	December 1, 2021

*Must be requested by August 1, 2019 to be implemented by the 2020 Primary Election. Project kick-off is no later than September 1, 2019.

**Prices reflect a 35% discount for long term customers

Additional Requested Services

Product/Service	Term	Fee	Invoicing Date
On-Site Support: 2019 Primary Election	From 6:00am to 11:59pm on Primary Election Day.	$6,000.00	December 1, 2018
On-Site Support: 2019 General Election	From 6:00am to 11:59pm on Primary Election Day.	$6,000.00	December 1, 2018
On-Site Support: 2020 Primary Election	From 6:00am to 11:59pm on Primary Election Day.	$6,000.00	December 1, 2019
On-Site Support: 2020 General Election	From 6:00am to 11:59pm on Primary Election Day.	$6,000.00	December 1, 2019
On-Site Support: 2021 Primary Election	Option: From 6:00am to 11:59pm on Primary Election Day.	$6,000.00	December 1, 2020
On-Site Support: 2021 General Election	Option: From 6:00am to 11:59pm on Primary Election Day.	$6,000.00	December 1, 2020
On-Site Support: 2022 Primary Election	Option: From 6:00am to 11:59pm on Primary Election Day.	$6,000.00	December 1, 2021
On-Site Support: 2022 General Election	Option: From 6:00am to 11:59pm on Primary Election Day.	$6,000.00	December 1, 2021