



# CLARITY ELECTION SUITE SOLUTION PROPOSAL



ELECTION CALENDAR /  
TASK MANAGEMENT &  
ELECTION NIGHT  
REPORTING

Prepared Exclusively for

***HIDALGO, TX***



***June 11, 2012***



### ***Proposal Terms***

The services and cost estimates contained represent the best solutions at competitive prices within the stated project parameters. This proposal is valid for a period of thirty (30) days from June 11, 2012. In the event that Hidalgo County and SOE Software cannot agree upon a mutually agreeable contract within a thirty (30) day period, SOE Software reserves the right to make any necessary adjustments to the scope, time estimates, or investment price for the project.

This proposal does not serve as a binding agreement for either party represented. Binding agreements will be acknowledged as a definitive contract, executed and delivered.

Should you require any clarification or additional information, do not hesitate to contact our offices. Again, thank you for this opportunity and we look forward to a successful engagement with Hidalgo County.

Sincerely,

Bill Murphy  
Director of Business Development  
SOE Software Corporation  
[bmurphy@soesoftware.com](mailto:bmurphy@soesoftware.com)  
(813) 865-7548 (Direct)  
(813) 503-3668 (Cellular)  
[www.soesoftware.com](http://www.soesoftware.com)



## WHO IS SOE SOFTWARE?

Focused on the needs of Election Officials and their staff

SOE Software provides Elections Officials and their staff with the tools they need to optimize elections operations, to create confident voters, and to manage the myriad tasks necessary to conduct a successful election. Our easily implemented software suite assists Officials at all levels, by providing easy to implement, election specific, web automation which will allow your office to do more with less. SOE Software is a national software vendor dedicated to elections that has developed software products specifically for the election process. The SOE Clarity Suite is available for acquisition with General Compliance HAVA funds as well as many types of funding provided to improve and modernize internal operations or to enhance inclusion, openness and transparency in the election process.

### SOE Software Highlights include:

- Election Customers in 26 States  
(AL, AR, AZ, CA, CO, CT, DC, FL, GA, IL, KS, KY, IN, MI, MN, MS, NC, NM, NY, OK, SC, TX, UT, VA, WA, WV)
- Over 1200 Elections Jurisdictions using SOE products
- Products enhanced through collaboration with election officials



### INDUSTRY LEADING EXPERTISE

SOE Software is proud to admit our strongest advocates are our satisfied customers, election leaders across the United States. With customers in over 600 jurisdictions in 20 states SOE Software is able to leverage "best practices" gained from each implementation to enhance the solutions we deliver to each new customer whether at the city, county or state level. Our extensive roster of customers spans size, demographics, geography and voting equipment type and vendor. While all modules of the Clarity Election suite are agnostic to voting equipment type or vendor, SOE Software currently works with customers who utilize equipment from every major tabulation equipment vendor.

### SOE SOFTWARE REFERENCE CLIENTS

JEFFERSON, TX	DALLAS, TX	TARRANT, TX
<p><b>Kaleb Breaux</b>            Election Administrator            Phone: (409) 722-4637            Email:            kbreaux@co.jefferson.tx.us            Voting Equipment: ES&amp;S            Registered Voters: 159,927</p>	<p><b>Toni Pippins-Poole</b>            Election Administrator            Phone: (214) 819-6334            Email:            tpippins@dallascounty.org            Voting Equipment: ES&amp;S            Registered Voters: 1,200,000</p>	<p><b>Steve Raborn</b>            Elections Administrator            Phone: (817) 831-6480            Email:            srraborn@tarrantcounty.com            Voting Equipment: HART            Registered Voters: 890,000</p>

## SOLUTION OVERVIEW

## ELECTION NIGHT REPORTING



**ENR**

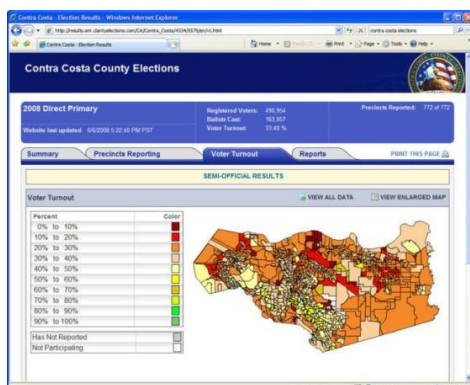
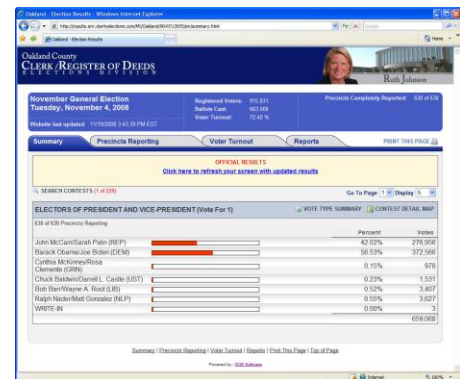
Providing your constituents with county wide election results can be managed with a few mouse clicks with SOE Software's **Clarity ENR**. This tool allows elections officials to display visually appealing, graphical results along with maps to illustrate voter turnout, totals by vote type, and results by precinct. With brilliant, colorful display this product is a must have for the public and the media on Election Night.

### HIGHLIGHTS INCLUDE

- **Hosted Delivery & Guaranteed Bandwidth Capability**
- **Graphical Presentation of Election Night Results**
- **No Direct Internet Connection to Tabulation Equipment**
- **Extensive Experience with ES&S Tabulation Files**

### GRAPHICAL PRESENTATION

**Clarity ENR** enhances your web presentation of election night returns by empowering every web visitor with the ability to search for and find the information they desire. Bar chart presentation for each contest or issue on your ballot visually highlights leading candidates or issues, while providing granular detail down to actual number of votes received, where those votes have come in, even breaking down vote type (election day, absentee, provisional, etc.).



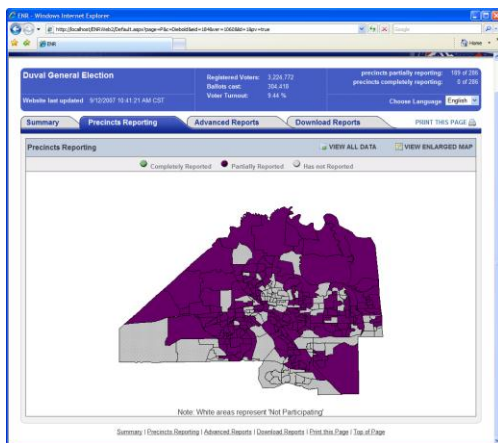
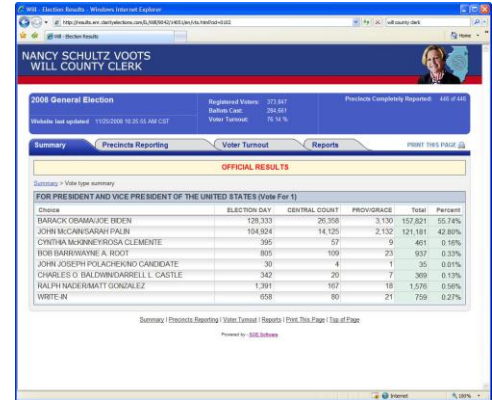
### COUNTY MAP DISPLAY

Candidates, political parties, interested constituents, and media outlets appreciate the visual display provided by **Clarity ENR**. For every political contest or question on your ballot **Clarity ENR** provides color-coded maps showing contest leaders in each Precinct, within each County, of your State. Hovering your mouse over each Precinct displays its unique name or number empowering your web visitors to locate the information they are most interested in capturing. **Clarity ENR's** State map display delivers instant feedback on voting trends minimizing inbound requests for information from your staff.



## VOTE TYPE BREAKDOWN

Today's web visitor's demand customized information. **Clarity ENR** delivers with searchable reports detailing election night information such as precinct specific results, contest or question specific results, even vote type breakdowns. The vote type breakdown tab provides granular detail of how votes have been received outlining early voting numbers, absentee voting numbers, Election Day returns, etc. This level of detail makes **Clarity ENR** the election industry's most comprehensive election night reporting tool.



## PRECINCT REPORTING UPDATE

As important as it is to knowing who is leading in each contest is understanding the status of reporting for each county. **Clarity ENR** provides this detail through our visually appealing county map display feature. Each precinct or county displays their level of reporting **Grey = have not reported**, **Purple = partially reported**, and **Green = completely reported**. This enhances the level of detail displayed on your web site minimizing inbound requests for information.

## AUTOMATED EMAIL AND (S)FTP DELIVERY

**Clarity ENR** assists elections directors in distributing the multitude of report requests on election night. The product includes an automated delivery system managed through "Recipients Lists". This feature allows administrators to preload an unlimited number of email addresses or secure FTP address prior to each election. Upon completion of each upload, these recipients will automatically receive a CSV or excel file of the most recent update. This feature has been praised by our customers for providing information proactively to the public in as close to "real time" as possible.

Recipient	CSV	Sum	SDR	Delete
sharlene@montgomerycounty.com	✓	✓	✓	✗
rdanachroder@franklincounty.com	✓	✓	✓	✗
jmathews@starbuckcounty.org	✓	✓	✓	✗
ghamlin@tarrantcounty.com	✓	✓	✓	✗
cpethy@seacoastcounty.com	✓	✓	✓	✗
brunner@oak.state.tx.us	✓	✓	✓	✗
admin@coyotegacounty.com	✓	✓	✓	✗

## ELECTION CALENDAR & TASK MANAGEMENT



### Control

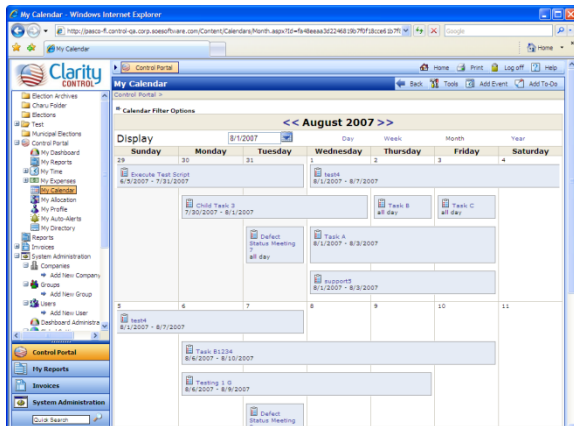
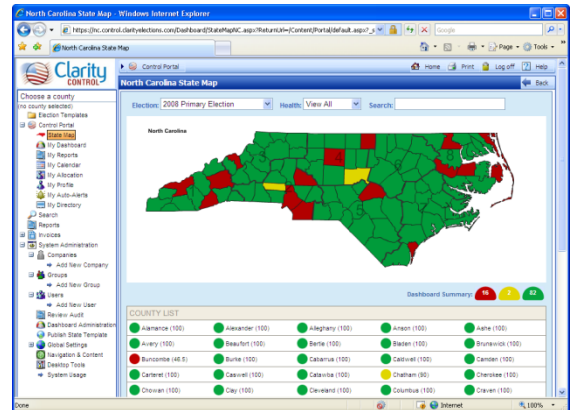
Developed and shaped from our clients, this solution enables elections offices across the country to manage multiple elections and a myriad of critical tasks while planning for contingencies. **Clarity CONTROL** provides each staff member with a unique and targeted view of their responsibilities by election. Managers are able to review email (from their computer, PDA, or phone) and instant messaged notifications of task status based on rules they determine (i.e. task is late by 1 day). This powerful data aggregation provides instant updates for maximum oversight without the burden of learning new software through integration with Microsoft Outlook.

#### HIGHLIGHTS INCLUDE

- Executive Dashboard Reporting including an Interactive Calendar
- Manage Multiple Elections or Project Simultaneously
- 100% Pre-Loaded by SOE Software – No Burden on Staff
- Interfaces with Microsoft Outlook and Microsoft Project
- Hosted Delivery – NO Hardware, Software, or Bandwidth Burden

#### EXECUTIVE DASHBOARD REPORTING

Graphically display Election progress in a variety of manners. One display is the "Executive Dashboard". This view allows senior Elections Officials to check the status of various departments at any time. Preloaded tasks can include vendor preparation, statutory requirements, and customer preferences. Intuitive gauges provide immediate feedback into the health of each task. **RED** = Needs Immediate Attention, **YELLOW** = Monitor Closely, **GREEN** = On Time/On Schedule.



#### REALTIME VISIBILITY IN CALENDAR FORMAT

Interactive, personalized calendars are another project view that allows users to "drill down" on specific tasks for more information. This view may be filtered by selecting any or all elections and any or all resources. Calendars allow users to look at an individual day, week, month, or an entire year of tasks.



Task Reports - Windows Internet Explorer

Report Filter Options  
 On task meeting entry. Scheduled within 9/12/08 to 9/29/08. All projects in Active state.

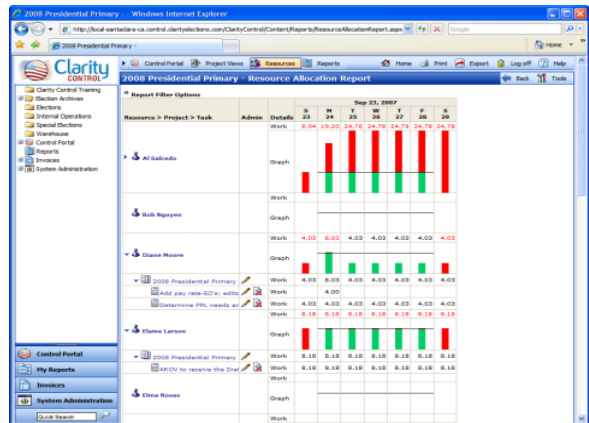
Project Indicator	Project Name	Project Number	Task Name	Assigned To	Duration	Met Mem	% Compl.	Start Date	End Date
	Like Template Test	152	Start scheduling judges	856	0:00	Thu 11/04/08 8 AM	0.00%	Thu 11/04/08 8 AM	Mon 2/10/09 5 PM
	Pittsburgh County Re-implementation	158	Get photos - All Programs	156	0:00	Thu 12/11/08 8 AM	0.00%	Thu 12/11/08 8 AM	Mon 1/4/09 5 PM
	Pasco Re-implementation	167	Design Document Creation for 3.0.0.4 / 3rd Control Panel	260	0:00	Wed 12/23/08 8 AM	0.00%	Wed 12/23/08 8 AM	Mon 2/10/09 5 PM
	Change for Washburn Implementation	169	Clear review of design document - County/State Staff of SOE	350	0:00	Wed 12/23/08 8 AM	0.00%	Wed 12/23/08 8 AM	Fri 2/10/09 5 PM
	Pasco Re-implementation	167	EVID Manual Creation and Provision to SOE County/State Staff of SOE	652	0:00	Wed 12/23/08 8 AM	0.00%	Wed 12/23/08 8 AM	Mon 1/10/09 5 PM
	Greenman Test Project	54	Conduct training	Stacie Vanhook (77.72%)	84 Hr	0:00	Thu 12/23/08 9 AM	Fri 1/10/09 2 PM	
	Pittsburgh County Re-implementation	168	Custom Website Development	160	0:00	Thu 12/23/08 9 AM	0.00%	Thu 12/23/08 9 AM	Tue 1/10/09 5 PM
	Charlottesville, VA Washburn Implementation	168	Write Program Content All Programs	Matthew Brown (24.43%)	79	100.00%	Wed 12/23/08 9 AM	Thu 1/10/09 5 PM	
	Greenman Test Project	54	Perform test user acceptance	Noise filter (4.44%)	116 Hr	0:00	Thu 12/23/08 11 AM	Fri 1/10/09 2 PM	
	Greenman Test Project	54	Perform test operational acceptance	Noise filter (5.56%)	116 Hr	0:00	Thu 12/23/08 11 AM	Fri 1/10/09 2 PM	
	Like Template Test	152	Generate new CD website coding package	16	44	0:00	Thu 12/23/08 1 PM	Fri 1/10/09 5 PM	
	Like Template Test	152	Final notice of meeting time extension via	16	0:00	Fri 1/10/09 8 AM	0.00%	Fri 1/10/09 8 AM	
	Like Template Test	152	Final building commission regarding in	26	0:00	Fri 1/10/09 8 AM	0.00%	Fri 1/10/09 8 AM	
	Like Template Test	152	Carroll County Report to AGC	16	0:00	Fri 1/10/09 8 AM	0.00%	Fri 1/10/09 8 AM	
	Like Template Test	152	Final scheduling memo to meeting homepage	16	0:00	Fri 1/10/09 8 AM	0.00%	Fri 1/10/09 8 AM	
	Like Template Test	152	Zero out cards, cash machines, etc. for	26	0:00	Fri 1/10/09 8 AM	0.00%	Fri 1/10/09 8 AM	
	Like Template Test	152	Final user review site manager test	16	59.26%	0:00	Fri 1/10/09 10 AM	Mon 1/4/09 5 PM	
	Greenman Test Project	54	Acquire Bid For Production	Alison Popen (3.22%)	54 Hr	0:00	Fri 1/10/09 1 PM	Mon 1/10/09 9 AM	
	Greenman Test Project	54	Acquire Bid For Production	Angela Weaver (13.33%)	54 Hr	0:00	Fri 1/10/09 1 PM	Mon 1/10/09 9 AM	
	Like Template Test	152	Early voting training at Court House for	26	0:00	Fri 1/10/09 2 PM	0.00%	Fri 1/10/09 2 PM	
	Like Template Test	152	Call your election authority to verify year	16	0:00	Fri 1/10/09 5 PM	0.00%	Fri 1/10/09 5 PM	
	Like Template Test	152	Website release - 3-panels online	16	0:00	Fri 1/10/09 5 PM	0.00%	Fri 1/10/09 5 PM	

### FLEXIBLE, IN-DEPTH REPORTING

During elections or after elections, seeing which tasks are in danger of falling behind or areas that need additional help are crucial tools for any elections office. This election calendar solution provides complete reporting capability on any data field in the entire platform. Ad hoc reporting allows administrators to create and save custom reports for themselves or other managers throughout the organization.

### MONITOR STAFF WORKLOAD

Managers will be able to determine if they have sufficient resources to accomplish required tasks by utilizing the personnel management functionality. By adding resources such as personnel or time, Elections Officials can see the effects of their resource decision on the outcome of specific events. Burden rates for each resource may be set to assist in determining actual cost in conducting countywide or even municipal elections.



System Wide Auto Alerts - Windows Internet Explorer

System Wide Auto Alerts

Use the form below to add auto-alerts for "the System".

Type: Task overdue

Notify: Kurt Browning

when tasks are overdue by 2 days that are assigned to Pasco Admin for any active project in the system.

Personnel List:

- Froyone
- Ada Mullis
- Billy Stone
- Dudley Henry
- Eileen Magana
- Jim Endress
- Joyce Martin
- Kurt Browning
- Kristie Coamp
- Louise Carpenter
- Manika Thomas
- Michelle Williams
- Monica Justice
- Pasco Admin
- Rachel Decobas
- Rick Williams
- Rose James
- Sandy Lundquist
- Shirley Laughery
- Stephanie Clarke
- Tami Bentley
- Tiffany Allipied
- Tina Fioris
- Toby Cowen
- Vivian Bush
- Yania Kemp

### TIMELY EMAIL ALERTS

Never miss an important date through the use of user-defined email alerts. This feature is designed to alert staff or managers through email when a task is scheduled to start or the status of a task has changed. With email alerts, staff members remain productive and on track when they are away from their desks.

Events that can prompt an auto-alert include:

- Task Overdue
- Task scheduled to Start
- New Task Added
- Predecessor Task Complete



## PRICING OVERVIEW

CLARITY CONTROL PRICING	
SERVICE	PRICE
Software License Price	\$47,600
Statewide Discount – 20% (*)	<u>\$14,280</u>
Software License Total (One Time)	\$33,320
Implementation (One Time)	\$8,996
Ongoing Assurance	\$7,664
<b>TOTAL FIRST YEAR COST</b>	<b>\$49,980</b>

CLARITY ENR PRICING	
SERVICE	PRICE
Software License Price	\$66,298
Statewide Discount – 20% (*)	<u>\$13,260</u>
Software License Total (One Time)	\$53,038
Implementation (One Time)	\$13,259
Ongoing Assurance	\$13,259
<b>TOTAL FIRST YEAR COST</b>	<b>\$79,556</b>

(\*) Discount applies to a 1 year deal for a single product. Additional discounts are available for multiple year / multiple product contracts.



## THANK YOU

On behalf of SOE Software, I would like to thank you for taking the time to learn about our Clarity Election Solutions. I hope you find the information in this document informative and that it helps you to make decisions that bring value to all voters in Hidalgo County.

This price quote was crafted based on previous discussions and on what other jurisdictions similar to Hidalgo County across the country have paid. We appreciate the opportunity to show you the value enhanced technology can bring and the wide variety of solutions SOE Software provides in the election space.

SOE Software is an eGovernment technology company that specializes in elections and transparency. Our goal is to develop a long-term partnership that will keep Hidalgo County Elections ahead of the technology curve so you can efficiently serve your constituents by providing openness, transparency and consistency in the voting process. Below you will find my contact information if you should want to contact me for any questions.

I look forward to hearing the questions that come from our discussions today. If I can provide you with any further information regarding Clarity CONTROL or Clarity ENR, please feel free to contact me directly. I look forward to continuing this dialogue and helping to provide SOE's Clarity Election Solutions where you see fit.

Thank you, again, for your time and consideration!

Sincerely,

Bill Murphy  
Director of Business Development  
SOE Software Corporation  
[bmurphy@soesoftware.com](mailto:bmurphy@soesoftware.com)  
(813) 865-7548 (Office)  
(813) 503-3668 (Mobile)  
[www.soesoftware.com](http://www.soesoftware.com)



# CLARITY ELECTION SUITE HOSTING AND SUPPORT AGREEMENT

This Clarity Election Suite Hosting Agreement ("Agreement") is made and entered into by and between Hidalgo County Elections Department, located at 101 S 10th, Edinburg, TX 78539 (hereinafter "Customer") and **SOE Software Corporation**, a Florida corporation, having its principal place of business located at 5426 Bay Center Drive, Suite 525, Tampa, Florida, 33609 (hereinafter "Licensor").

**WHEREAS**, Licensor grants Customer a nonexclusive license to use its Clarity ENR and Clarity CONTROL software application (hereinafter the "Software") and the associated documentation.

**WHEREAS**, Customer's use of the Software will be restricted to our hosted computer environment.

**WHEREAS**, Licensor will provide and maintain the hosted computer environment for Customer's use of the Software (the "Service").

**WHEREAS**, in addition to the maintenance and support services that are included in certain fees paid by Customer to Licensor, Customer may opt to acquire additional maintenance services for the Software and documentation in accordance with the terms and on the conditions set forth in this Agreement.

**WHEREAS**, Customer desires to receive a license for the Software and engage Licensor to provide the Service.

**NOW, THEREFORE**, in consideration of the covenants, representations and warranties set forth herein and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties, by their authorized signatures below, hereby agree as follows:

## 1. Definitions

- 1.1. The term "Agreement" shall mean this Agreement and all Exhibits, Schedules and Attachments attached hereto now or in the future.
- 1.2. The term "Customer Data" shall mean the content and characteristics within the service that are modified through the use of the Service features by the authorized Account users of the Service.
- 1.3. The term "Documentation" shall mean all documentation and/or other materials (including manuals, instructions, training materials, specifications, flow charts, logic diagrams, and other support materials) relating to the use, operation and functionality of the Service.
- 1.4. The "Effective Date" is the date shown at the end of this Agreement and is the date when the parties intend the Service to commence.
- 1.5. The term "Services" shall have the meaning set forth in the Recitals above, and further described in Section 2. When the term "Services" is used alone herein, it shall also be deemed to include the term "Hosting Services" as that term is further described in Section 2.
- 1.6. The term "Service Level Agreement" shall mean Exhibit D, which sets forth the service levels at which identified portions of the Service are to be provided by Licensor and sets forth certain remedies for Customer in the event that Licensor does not attain such service levels.
- 1.7. The term "Term" shall mean the period of time this Agreement is in effect (absent any earlier termination as provided herein) and is a period of Five (5) years commencing on the Effective Date, subject to extension as provided herein.

## 2. Services

- 2.1. Services Scope - Licensor agrees to provide to Customer services for hosting the Software and for hosting other software required for the operation of the Software (the "Clarity ENR and CONTROL Software,"). Licensor shall permit Customer to, on a 24 x 7 basis; remotely access and use the Software are referred to as the "Hosting Services". Licensor's performance of the Service shall be pursuant to the terms and conditions set forth herein and also must conform to Customer's standard technical support requirements set forth in Sec. 2.2 hereof. Licensor shall give a password to Customer allowing it to access Licensor's site. Licensor shall serve as the single point of contact for all Services and Hosting Services issues and shall be solely responsible for coordinating and ensuring the resolution of any problems involving the Services and Hosting Services in a prompt and timely fashion.
- 2.2. Technical Support - As part of the Hosting Services, Licensor shall provide the support set forth in Exhibit B, the Hosting Environment Agreement, attached to and incorporated in this Agreement by this reference, and understands and agrees that Customer shall be entitled to the remedies stated therein.

## 3. Grant of License

- 3.1 Licensor grants Customer and its operating divisions a non-exclusive, perpetual license to use the Hosted Software in machine readable form as long as Customer maintains its status in good standing as a Customer of Licensor's Annual Software Assurance and Support Agreement and has purchased all requisite licensing fees. Licensor also grants Customer a non-exclusive perpetual license to use the Documentation.
- 3.2 Software upgrades are full version releases (e.g. version 4.x to version 5.0) and are included as part of the Annual Software Assurance and Support Agreement provided by Licensor to Customer.
- 3.3 Software updates (e.g. version 4.1 to version 4.2), including bug fix builds, are included as part of the Service provided by Licensor to Customer provided that Customer is current on all monies due to Licensor.

## 4. Obligations

- 4.1. Implementation - As a condition to Licensor's obligation to provide the Hosting Services, both parties shall be responsible for fulfillment of all of their obligations under the Agreement and completion of the project implementation plan. The project implementation plan will be jointly developed by Licensor and Customer subsequent to execution of this Agreement by both parties and payment of fee(s) as outlined in Exhibit A, attached to and incorporated in this Agreement by this reference.
- 4.2. Technical Environment - Licensor shall provide the Services and other products, as prescribed in Exhibit B, (or similar services and products that provide a similar level of service), and will also provide any and all equipment, to provide the Hosting Services (the "Hosting Environment") pursuant to Exhibit B. Licensor shall be responsible for the costs associated with obtaining and maintaining the Hosting Environment, unless otherwise indicated in Exhibit A. Licensor also shall pay the costs of the services or other products necessary to permit Customer to transmit data to and receive data from the Hosting Environment; however Customer is responsible for the costs of its own communication lines. Licensor shall maintain and insure the server and shall indemnify Customer for any damage, loss or injury to the equipment (other than normal wear and tear).
- 4.3. Data Transmission - Should Customer require a special data transmission format to the Software, such as SSL, the format and any additional costs and implementation timeline effects will be agreed upon, in writing, between Licensor and Customer.
- 4.4. Coordination - Each party shall designate a contact to coordinate day-to-day communication with the other party.

## 5. Term, Termination, and Transition Assistance

- 5.1. The initial term of this Agreement will be for five (5) years commencing on the Effective Date (the "Initial Term").
- 5.2. Renewal Term - Customer may exercise an option to renew this Agreement, for an additional twelve (12) month term beyond the Initial Term (the "Renewal Term"), at any time prior to the end of the Initial Term by giving notice thereof in writing to Licensor. In the absence of notification, Customer shall be deemed to have agreed to the renewal of this Agreement for an additional twelve (12) month term beyond the Initial Term.
- 5.3. Termination for Material Breach - A party may terminate this Agreement if the other party commits a material breach or default (including nonpayment of fees) and fails to remedy such breach or default within thirty (30) days after written notice of the same from the other party. In the event of termination due to a breach or default by Customer, no refunds or credits will be due to Customer. In the event of termination due to a breach or default by Licensor, Customer will receive a refund of the fees for the remaining Annual Assurance Plan Payment.
- 5.4. Effect of Termination or Expiration - Upon the termination or expiration of this Agreement, all payment obligations of one party to the other under this Agreement incurred through the date of termination or expiration will immediately become due. Upon notification by Customer, and at Customer's sole discretion, Licensor shall either return all Customer's Data within thirty (30) days of the date of termination or expiration, or shall commence implementation of the Transition Plan as set forth below (Section 5.7). Licensor shall invoice Customer for the transportation and insurance costs associated with returning the Customer Data to Customer. Termination of this Agreement by either party shall not operate to terminate the underlying Agreement.
- 5.5. Termination of Agreement Upon Bankruptcy - Either party may terminate this Agreement upon written notice to the other party if the other party becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign, or has wound up or liquidated, voluntarily or otherwise.
- 5.6. Termination of Agreement Upon Service Level Failures - Customer may terminate this Agreement upon thirty (30) days written notice to Licensor upon the failure of Licensor to provide technical and customer support constituting a material breach of this Agreement in accordance with the service levels outlined in the Service Level Agreement (Exhibit D). In the event of termination of this Agreement due to a material breach of this Agreement pursuant to this Section 5.6, Customer shall receive a refund of the fees for the remaining Annual Assurance Plan Payment.
- 5.7. Transition Services - The parties acknowledge that, prior to the termination or expiration of this Agreement, Customer may engage a successor vendor to perform such services or bring such services in-house. From the time that Customer notifies Licensor to whom Customer plans to migrate the services, Licensor agrees to cooperate with Customer (and, if applicable, the successor vendor) to effect an orderly and efficient transition. Within sixty (60) calendar days after termination or expiration of this Agreement by either party, Customer shall pay Licensor all undisputed amounts due and owing as of the termination of the Agreement, and, except to the extent reasonably necessary for the transition services described in this Section 5.7, shall immediately cease any and all use of the Service and materials or services provided by Licensor pursuant to this Agreement. At such time as Customer reasonably determines necessary to effect the transition, Licensor shall provide in electronic format a copy of all Customer information, without limitation, residing on Licensor's systems that is necessary for an effective transition. Cooperation by Licensor may include, without limitation, continuing to host Customer images, making qualified service personnel available for questions and consultations, transferring contact numbers or URL addresses, and providing any required technical assistance and cooperation to Customer as Customer may from time to time reasonably request. Such transition period will not extend past six (6) months from the termination or expiration of this Agreement, unless otherwise negotiated. Customer and Licensor agree to act in good faith in complying with these obligations. Customer will pay the reasonable expenses of Licensor in providing services during the transition period. Within thirty (30) days after the transition period ends, upon

written request, each party shall deliver to the other party all copies of the Confidential Information of the other party in every form that such party continues to hold. On a party's written request, the other party shall certify, in writing, to the requesting party that the other party has performed the foregoing delivery or destruction.

## 6. Fees Price - Payment

- 6.1. Fees - Customer shall pay to Licensor the fees as prescribed in Exhibit A, attached to and incorporated in this Agreement by reference. All fees shall remain the same during the Initial Term and the Renewal Term, if any. If Customer and Licensor agree in writing to further extend the Initial Term or the Renewal Term, such writing shall set forth the fees that shall be applicable during the extended term(s). Maximum compensation payable by Customer to Licensor shall not exceed the fees prescribed in Exhibit A during the Initial Term and any Renewal Term, if any.
- 6.2. Service Fees - Customer shall pay to Licensor the fees set forth in Exhibit A, to the extent applicable. All fees shall remain the same during the original Term and the initial 12-month extension, if Customer opts for such extension. If Customer and Licensor agree in writing to further extend the Term, such writing shall set forth the fees that shall be applicable during the extension of the Term.
- 6.3. Payment Terms - Licensor shall submit invoices to Customer on a monthly basis. Payment on undisputed amounts shall be due within thirty (30) days after Customer's receipt of Licensor's invoice. Customer shall pay interest at a rate of 1.5% per month on any overdue invoices. Customer shall have no obligation to pay amounts not invoiced within ninety (90) days of the final date that the services being invoiced were delivered, unless the vendor has notified customer in writing within such ninety (90) day period, that the invoice will be delayed and has indicated in writing when the invoice will be delivered to customer.
- 6.4. Taxes - Customer shall pay or reimburse Licensor for sales and use taxes, where applicable, and any other governmental charges levied, imposed or assessed on the Services, excluding, however, ordinary personal property taxes assessed against or payable by Licensor, taxes based upon Licensor's net income.

## 7. Licensor Representations and Warranties.

In addition to the representations and warranties in the Agreement:

- 7.1. General Licensor Warranties - Licensor warrants that (a) the Service provided hereunder and the underlying technology used by Licensor in performing the Service is owned free and clear of any encumbrances or is in the public domain; (b) Licensor has full power and authority to enter into this Agreement and to carry out its obligations under this Agreement; (c) there are no outstanding assignments, grants, licenses, encumbrances, obligations or agreements (whether written, oral or implied) that are inconsistent with this Agreement; (d) Licensor's compliance with the terms and conditions of this Agreement shall not violate any federal, state or local laws, regulations or ordinances nor shall it violate any third party agreements; (e) there is no claim, litigation or proceeding pending or threatened against Licensor with respect to the Service or its underlying technology or any component thereof alleging infringement or misappropriation of any patent, trademark, copyright or any trade secret or other proprietary right of any person; and (f) the Service does not infringe or misappropriate in any respect upon any patent, trademark, copyright or any trade secret or other proprietary right of any person or entity
- 7.2. Authority and Performance - Licensor represents and warrants that it has the legal right and authority to enter into this Agreement and perform its obligations hereunder, and the performance of its obligations hereunder will not cause a breach of any agreements between Licensor and any third parties, including all vendors critical to its performance obligations hereunder.
- 7.3. Service Level Commitment - Licensor warrants that it will perform its services in accordance with Licensor's service level commitment as set forth in Exhibit D. Customer's sole and exclusive remedy for Licensor's failure to meet the service level commitment is the remedy set forth in Exhibit D.

- 7.4. NO OTHER WARRANTY - EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT THE HOSTING SERVICES ARE PROVIDED AS IS AND LICENSOR DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY THAT THE HOSTING SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.
- 7.5. LICENSOR AND ITS THIRD PARTY VENDORS SHALL NOT BE RESPONSIBLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR OTHER INDIRECT DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, LOSS OF DATA OR LOSS OF USE DAMAGES) WHICH CUSTOMER MAY INCUR OR EXPERIENCE ARISING FROM THE SOFTWARE OR ON ACCOUNT OF ENTERING INTO OR RELYING ON THIS AGREEMENT, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 8. Customer Representations and Warranties.

In addition to the representations and warranties in the Agreement:

- 8.1. **Authority and Performance.** Customer represents and warrants that it has the legal right and authority to enter into this Agreement and perform its obligations hereunder, and the performance of its obligations hereunder will not cause a breach of any agreements between Customer and any third parties.

## 9. Intellectual Property

- 9.1. Customer Data - Customer will own all Customer Data. Licensor will not sell, license or in any way distribute the Customer Data to any person or entity, and shall not permit the Customer Data to be used in any way (including any aggregation or summarized results of Customer Data) by any person or entity other than Customer without Customer's express written permission.
- 9.2. Aggregated Data - Notwithstanding the preceding section 9.1, Licensor may include in its benchmark/comparison studies performance data about the Services provided hereunder such as total number of users, overall customer count, average amount of disk usage, etc., so long as such performance data is aggregated with the performance data of Licensor's other customers so that Customer's information cannot be separately identified.
- 9.3. Licensor Technology - The Service and any technology, computer programs or computer codes developed, created or produced by or on behalf of Licensor existing as of the Effective Date of this Agreement, and any Licensor documentation relating thereto, are, as between Licensor and Customer, the sole property of Licensor. To the extent that, during the term of this Agreement, Customer pays in whole or in part for, or provides development personnel to work on, technical or functional developments related to the Service, Licensor agrees to incorporate such developments into the Service provided for Customer. Licensor shall have full right, title and interest in the developments and may incorporate the developments into the services made available to Licensor's other customers.
- 9.4. No Rights in Other Party's Intellectual Property - Neither party will have any rights in or with respect to the other party's property described in the preceding Section 9.1 and 9.2, other as expressly set forth in this Agreement and the exhibits hereto.

## 10. Indemnification

- 10.1. Licensor shall indemnify, defend, and hold harmless Customer, its respective employees, directors, shareholders and agents, from and against any expense, cost, damage, loss, fine, penalty, liability or judgment (including attorneys' fees and costs) suffered or incurred by Customer as a result of a third party claim, demand, action, arbitration, suit or similar proceeding (hereafter "Claim") related to Licensor's actual or alleged infringement of a patent, copyright, trade secret or other proprietary right of any such third party. Licensor's indemnification obligation is subject to: (i) Customer providing

Licensor with prompt written notice of any Claim, (ii) Licensor having sole control of the defense and all negotiations for settlement or compromise thereof (provided, however, that any settlement or compromise that imposes any current or future obligation on Customer or directly or indirectly, explicitly or implicitly, acknowledges guilt or responsibility of Customer shall require the advance review and approval of Customer, which approval may be withheld in Customer's sole discretion) and (iii) Customer reasonably cooperating, at Licensor's expense, in the defense of such Claim. Failure to provide prompt written notice shall not abrogate or diminish Licensor's obligations under this Section if Licensor has or receives knowledge of the existence of such Claim by any other means or if such failure does not materially prejudice Licensor's ability to defend the same. Licensor agrees to pay all settlements entered into by Licensor, judgments finally awarded against Customer, and all attorneys' fees and expenses for counsel hired by Licensor. Customer may elect to participate in any such action with counsel of its own choice and at its own expense. In the event Customer is precluded by a court of competent jurisdiction from using the Service as a result of Licensor's infringement of any such patent, copyright, trade secret or other proprietary right of such third party, Licensor shall do one of the following (the election of which option to pursue being in Licensor's reasonable discretion):

- a. obtain the right for Customer to use the Service; or
- b. replace or modify the Service so that it no longer infringes but maintains substantially the same functionality and performance; or
- c. if neither of the foregoing is, in Licensor's reasonable opinion, commercially reasonable: terminate this Agreement with respect to the Service and promptly reimburse to Customer all unused prepaid fees paid by Customer and provide to Customer transition services as described in Section 5.8.

## 11. Limitation of Liability

11.1. LICENSOR'S AND ITS THIRD PARTY VENDORS' AGGREGATE LIABILITY FOR ANY LOSS OR DAMAGES RESULTING FROM ANY CLAIMS, DEMANDS, OR ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL NOT EXCEED THE LICENSE FEE PAID BY CUSTOMER TO LICENSOR FOR USE OF THE SERVICES.

## 12. Insurance

12.1. During the Term, Licensor shall keep in full force and effect, policies of insurance meeting or exceeding the following specifications:

- a) Commercial General Liability insurance, with coverage including premises/operations, contractual (including without limitation coverage for all indemnities herein), personal and advertising injury, and products/completed operations, with aggregate coverage limits of not less than one million dollars (\$1,000,000).
- b) Workers' Compensation insurance, as required by law, and Employer's Liability insurance with limits of liability of not less than one hundred thousand dollars (\$100,000) per accident or disease and five hundred thousand dollars (\$500,000) aggregate by disease.

Such insurance shall be purchased from companies having a rating of A-VII or better in the current Best's Insurance Reports published by A. M. Best Company. Policies of insurance shall provide that they will not be canceled or materially changed without at least thirty (30) days prior written notice to Customer. Licensor shall, at Customer's request, provide a Certificate of Insurance.

## 13 Dispute Resolution

13.1 Procedures - For any dispute arising under the Agreement that is not resolved informally, either party may give to the other party notice of the dispute, including reasonable detail concerning the alleged deficiency in performance of the other party. The parties shall then meet in person at Customer's offices in Hidalgo County, Texas or at another agreeable location or by other acceptable means and attempt in good faith to reach an agreement resolving the dispute. If they do not reach such an agreement within seven (7) days

after such notice is given, then each of them shall produce a detailed report about the dispute for his or her appropriate management level (Second Level in the chart below), who shall meet in person at Customer's offices in Hidalgo County, Texas or at another agreeable location or by other acceptable means and attempt in good faith to reach an agreement. If they do not reach such an agreement within the period specified below, then each party shall refer the dispute to higher levels of management as shown below. In each case, the parties' specified representatives shall meet in person at Customer's offices in Hidalgo County, Texas or at another agreeable location or by other acceptable means, shall attempt in good faith to reach an agreement and, if they do not do so within the period specified, shall refer the dispute to the next level at the end of such period.

<b>Management Level</b>	<b>Customer Management Level</b>	<b>Licensor Management Level</b>	<b>Period of Resolution Efforts</b>
First Level	Project Mgr. or equivalent	Vice President, Sales	7 days
Second Level	Group Manager or equivalent	Vice President, COO	7 days
Third Level	Senior Level or equivalent	Chief Executive Officer	7 days

If the parties have not signed a written agreement to resolve the dispute by the end of the period specified for the Third Level, then either party may request mediation as provided for in Section 13.2 below. Except as otherwise specifically provided, neither party shall initiate mediation unless and until the procedures described in this Section 13.1 have been completed or waived by both parties.

- 13.2. **Mediation** - If a dispute between the parties arising out of or relating to the Agreement remains unresolved after the procedures in Section 13.1 have been completed or waived by both parties, then the parties agree to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under the Commercial Mediation Rules, as modified by this Section 13.2. The mediation shall take place at Customer's offices in Hidalgo County, Texas or at another agreeable location.. If the two parties cannot otherwise agree on the mediator, the mediator shall be selected according to the following process: (i) the parties shall request the American Arbitration Association to provide to both parties, within 15 days of receipt of the notice of mediation, a list of mediators that comply with the requirements set forth in this Section 13.2; (ii) within 5 days of receipt of the list of mediators from the American Arbitration Association, each party shall notify the other party of its selection of one person from the list; (iii) immediately following the parties' selection of the two persons, the parties shall send a notice to the two persons informing them that they have been selected, that their role will be to select another person from the list who will serve as the mediator of the dispute, and that they must inform both parties of their selection within 7 days; and (iv) if the two persons so selected fail to select a mediator within the stated 7-day period, the parties shall provide notice to the American Arbitration Association and direct the American Arbitration Association to select a mediator from the list within 7 days. Subject to the rules of the American Arbitration Association, the parties shall request that the mediation occur within a period of 20 days after the mediator is selected, and each party shall act in good faith to facilitate completion of the mediation within such period. The parties agree that a potential mediator's experience in the information-technology industry and experience in arbitrating disputes between service/equipment Licensors and purchasers of services and equipment shall be relevant factors in selecting the mediator.
- 13.3. **No Effect on Injunctive Relief** - A party must follow and participate in the processes outlined in Sections 13.1 and 13.2 above before pursuing litigation or any other remedy. Notwithstanding the preceding, a party shall not be precluded from seeking injunctive relief in connection with a breach of confidentiality under the Nondisclosure.
- 13.4. **Performance Pending Outcome of Disputes** - In the event of a dispute between the parties pursuant to which Customer in good faith believes it is entitled to withhold payment, Customer shall be entitled to withhold payment of the disputed amount during the pendency of the dispute-resolution process described in this Section 13 and any subsequent litigation or other proceeding and Licensor shall

continue to provide the Service at the same level and quality required by this Agreement, so long as Customer continues to pay undisputed amounts to Licensor.

## 14. Other Provisions

- 14.1 Notice - All notices, consents and other communications under or regarding this Agreement shall be in writing and shall be deemed to have been received on the earlier of the date of actual receipt, the third business day after being mailed by first class, certified mail return receipt requested, or the first business day after being sent by a reputable overnight delivery service. Customer's address for notices is Hidalgo Elections Department, 101 S. 10<sup>th</sup> Ave., Edinburg, TX 78539. Licensor's address for notices is the address shown at the beginning of this Agreement. Either party may change its address for notices by giving written notice of the new address to the other party in accordance with this Section 14.1.
- 14.2 Benefit of Successors and Assignees - This Agreement and all of the terms and conditions hereof shall be binding upon and inure to the benefit of Licensor and Customer and their respective successors, transferees, or assignees. Any terms of this Agreement containing a reference to Customer, Licensor, or a party hereto shall apply with equal effect to any such successor, assignee, transferee of the party in question.
- 14.3 Assignment - Customer may not assign this Agreement or convey any rights or obligations under this Agreement to a third party. Licensor may not assign this Agreement or convey any rights or obligations under this Agreement to a third party; provided however, Licensor may assign this Agreement to a purchaser of all or substantially all of its assets, a subsidiary or business unit, or a successor by merger or operation of law so long as such purchaser, subsidiary, business unit or successor agrees to be bound by the terms of this Agreement.
- 14.4 Relationship - The relationship between the parties created by this Agreement is that of independent contractors and not partners, joint ventures or agents. Nothing in this Agreement makes Licensor a sole supplier to Customer, grants any exclusive rights to Licensor, or prohibits Customer from obtaining similar or related services from other parties.
- 14.5 Severability - A determination that any provision of this Agreement is invalid or unenforceable shall not affect the other provisions of this Agreement.
- 14.6 Headings Gender, Number and Language of Inclusion - Section headings are for convenience of reference only and shall not affect the interpretation of this Agreement. Unless the context clearly requires otherwise, the singular includes the plural and vice versa, and the masculine, feminine and neuter adjectives include one another. As used in this Agreement, the word "including" shall mean "including, but not limited to".
- 14.7 Governing Law - This Agreement shall be governed by and construed under the laws of the State of Texas and is performable in Hidalgo County, Texas without regard to the conflicts of law provisions thereof.
- 14.8 Publicity - Licensor may not use Customer's trade names, trademarks, logos, service marks, or other proprietary marks in any manner, including but not limited to advertising, publicity, user lists, or guest lists or websites, unless Licensor has received prior consent from an authorized representative of Customer to do so, which consent may not be unreasonably withheld by Customer.
- 14.9 Data Privacy - Licensor may use Customer's contact information, including names, phone numbers, and e-mail addresses only in connection with the performance of its obligations hereunder.
- 14.10 Remedies - The rights and remedies of Customer set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to it in law or equity. Notwithstanding anything to the contrary in this Agreement, in the event of an alleged breach of this Agreement by Customer, Licensor shall not use any type of electronic means to prevent or interfere with Customer's use of the Software without first obtaining a valid court order authorizing the use of such electronic means.

- 14.11 Entire Understanding - This Agreement, its Schedules and amendments constitute the entire agreement between the parties for the Software licensed hereunder, and will become binding when signed by both parties. There are no understandings, agreements or representations not specified herein with respect to Software licensed hereunder. This Agreement may not be modified, except by a written amendment signed by duly authorized representatives of both parties.
- 14.12 Force Majeure - Any delay or failure of performance of either party to this Agreement shall not constitute a breach of the Agreement or give rise to any claims for damages, if and to the extent that such delay or failure is caused by an occurrence beyond the reasonable control of the party affected, including acts of governmental authorities, acts of God, material shortages, wars, riots, rebellions, sabotage, fire, explosions, accidents, floods, or strikes or lockouts of third parties. In the event one of the parties intends to invoke this provision, that party shall (i) promptly notify the other party of the cause beyond its reasonable control, the expected duration thereof, and the anticipated effect of such cause on its ability to perform its obligations under this Agreement, and (ii) shall make reasonable efforts to mitigate any such effects.
- 14.13 Costs of Litigation - If a dispute should arise relating to the rights and obligations of the parties under this Agreement, and should that dispute result in litigation, the prevailing party shall be entitled to recover all reasonable costs incurred in the defense or prosecution of the claim, including, without limitation, court costs and reasonable attorneys' fees.
- 14.14 No Waiver - Except as expressly set forth in this Agreement, the failure of either party at any time to require performance of any provision of this Agreement or to exercise any right provided for herein shall not be deemed a waiver of such provision or right unless made in writing and executed by the party waiving such performance or right. No waiver by either party of any breach of any provision of this Agreement or of any right provided for herein shall be construed as a waiver of any continuing or succeeding breach of such provision or right or a waiver of the provision or right itself.
- 14.15 Survival - All representations, warranties, indemnities and obligations of confidentiality expressly set forth herein shall survive the termination of this Agreement.

This Agreement may be terminated by County without cause upon thirty (30) days written notice.

## 15. Effective Date

The Effective Date, when the parties intend for the Service to commence, is the date signed by Customer below.

## 16. Schedules

The following Exhibits are attached hereto and deemed part of this Agreement:

- Exhibit A Fees
- Exhibit B Hosted Environment – Annual Software Assurance and Support
- Exhibit C Technical Support Attachment
- Exhibit D Service Level Agreement

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed in duplicate originals by authorized personnel who, on the date of such signing, have the necessary and appropriate corporate authority to bind his or her respective organization hereunder.

**Licensor:**

**Customer:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: **Marc J. Fratello**

Name: \_\_\_\_\_

Title: **CEO**

Title: \_\_\_\_\_

Date: **6/12/12**

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

**EXHIBIT A**

**FEES**

**PRICING Overview**

The following outlines our pricing model for SOE Software's Election Night Reporting and Project Management applications, known as Clarity ENR and CONTROL.

**Assurance Plan** – This plan is included in the pricing listed below. The assurance plan provides the County with application hosting, customer support, maintenance, upgrades and the evolution of the products at no additional charge. The SOE team completes all of the upgrades for you eliminating an Information Technology burden on the County.

**PRICING FOR HIDALGO COUNTY**

The scenario below requires an implementation cost based on the selected products. These fees include the comprehensive project management process of implementation, install and training.

	<b>COST</b>
<b>Clarity ENR and CONTROL Software License</b>	<b>\$ 86,358</b>
<b>Implementation Cost</b>	<b>\$ 22,255</b>
<b>Annual Software Assurance and Support</b>	<b>\$ 20,923</b>
<b>TOTAL FIRST YEAR COSTS</b>	<b>\$ 129,536</b>

**Payment Terms**

Year 1 Software & Services are due within sixty (60) days of the execution of this agreement

**Other**

Actual Travel expenses will be billed when incurred.

Hidalgo County will not pay any more for travel expenses other than what Hidalgo County Travel Policies allows and covers. Travel expenses must be reasonable and necessary. Any inappropriate or excessive costs will be at the expense of the traveler.

All billing invoices will be itemized (parts, labor, etc....)

Any/all supporting documentations for travel must be submitted with all invoices.

- All billing for travel time must be itemized (e.i. air travel, lodging, car rental, meals, mileage etc.)
- Copies of original receipts for all travels expenses must be provided with your invoice.

**EXHIBIT B**  
**HOSTED ENVIRONMENT**  
**ANNUAL SOFTWARE ASSURANCE AND SUPPORT**

**1. Software Assurance Services - Operations**

The software assurance services (the "Assurance") provided by Licensor to the Customer hereunder are in consideration of the annual charge described in Exhibit A, unless otherwise specified herein. The Assurance shall consist of:

- 1.1 All day to day operations of hosted products will be managed by Licensor staff or its agents, including required operating system and system utility administrative tasks and system back up and recovery. This includes management of system logs, coordination and installation of operating system patches and upgrades and system tuning.
- 1.2 Licensor will act as the database administrator for the application. Licensor will perform data back-up and recovery activities, manage and control database access, monitor and tune database performance and implement any required database patches and/or upgrades. Daily incremental backups will be performed Monday through Friday, after standard business hours. Full database back-ups will be performed weekly, after standard business hours. Database patches and/or upgrades are implemented as required, after standard business hours.
- 1.3 All maintenance will be performed done by Licensor staff or their agents.
- 1.4 Use of Licensor's reasonable commercial efforts to correct errors in the licensed Software. Errors are defined as the failure of the Software to operate in substantial conformity to the applicable documentation provided by Licensor to Customer for such Software.
- 1.5 Licensor will manage and maintain other items necessary to Hosting Services, including Software, internal network, firewall, routers, servers and data transmission equipment (including Licensor's virtual private network (VPN)).

**2. Support**

- 2.1 Operations and Technical Support will be available Monday – Friday, 8:30 AM – 8 PM, Eastern Time ("Business Hours")
- 2.2 Access to after-hour support (8:00 PM to 8:30 AM ET Monday – Friday, plus Saturday – Sunday), will be available through our after-hours support team
- 2.3 Response by Operations / Technical Support personnel will be within 4 hours, during Business Hours
- 2.4 Operation / Technical Support will cover data transfer and database / application availability issues
- 2.5 Operation and Technical Support will not cover end-use or analytical issues or questions

**3. Bandwidth**

- 3.1 Licensor will provide equipment and related software to send and receive data at approximately a 100 Mbps rate. However, Licensor cannot guarantee Internet latency and over-all Internet performance.

#### 4. Redundancy

- 4.1 Primary Production Facility – Licensor will provide and maintain a fault-tolerant Premiere Hosting facility, including redundant power and communications.
- 4.2 Licensor will also provide an out-of-state failover hosting facility, in case of massive failure of all redundant systems, with similar capabilities as the main data center.

#### 5. Security

- 5.1 Licensor will perform user ID and password management and dissemination. Access to Hosting Systems, Software and Ancillary Software will be coordinated with the Customer.
- 5.2 Licensor and Customer may agree to set-up and use a mutually agreed upon data encryption mechanism to transfer data between the Licensor's and Customer's sites within thirty (30) days from the execution of this Schedule.

#### 6. Additional Services

Customer may request Licensor to perform services of a different nature than, or beyond the scope of, those described above, and Licensor may provide such services ("Additional Services") and shall be compensated therefore by Customer at rates for such services as are customarily charged by Licensor. Examples of such Additional Services are:

- 6.1 Designing, programming, or testing of "customer specific" customization or requested enhancements.
- 6.2 Changes required to Customer's unique modifications to interface with updates to the standard version of the Software.

Additional training and instruction (other than what is provided with normal implementation) **Commitment of Current Revenues Only**. In the event that, during any term hereof, the Commissioners Court does not appropriate sufficient funds to meet the obligations of Buyer under this Agreement, Buyer may terminate this Agreement upon sixty (60) days written notice to Seller. Buyer agrees, however, to use reasonable efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of Buyer pursuant to the provisions of Tex. Loc. Govt. Code Ann. § 271.903 (Vernon Supp. 1996).

**TECHNICAL SUPPORT ATTACHMENT**

TECHNICAL SUPPORT RESPONSE AND RESOLUTION LEVELS SHALL BE AS FOLLOWS:

<b>Severity Classification</b>	<b>Description</b>	<b>Response Time*</b>	<b>Resolution Time Standard**</b>
<b>1 - Critical</b>	<ul style="list-style-type: none"> <li>• Business critical function is down</li> <li>• Major impact to Customer's business</li> <li>• No workarounds exists</li> </ul>	As soon as possible, using reasonable commercial efforts, but no more than one hour	42 hours <sup>^</sup>
<b>2 - Major</b>	<ul style="list-style-type: none"> <li>• Business critical function is impaired or degraded</li> <li>• There are time-sensitive issues that impact ongoing production</li> <li>• Workaround exists, but it is only temporary</li> </ul>	4 hours	2 days <sup>^</sup>
<b>3 - Minor</b>	<ul style="list-style-type: none"> <li>• Non-critical function down or impaired</li> <li>• Does not have significant current production impact</li> <li>• Performance is degraded</li> </ul>	1 business day	4 weeks <sup>^</sup>
<b>4 - Low</b>	<ul style="list-style-type: none"> <li>• Non-critical, function down or impaired</li> <li>• No business impact</li> <li>• Generic Service Enhancements</li> </ul>	1 business day	Mutually agreed timeframe based on prioritization.

\* Response Time is the elapsed time between Customer's first report of a problem and when the Vendor assigns a ticket number for the problem.

\*\* Resolution Time is the elapsed time between Customer's first report of the problem and the problem in the Software has been resolved.

<sup>^</sup> Level 1 – 3 issues may require resolution times that exceed these Response Time Standards. If fixes to level 1 – 3 issues are not resolvable within the timeframes listed above, Licensor will immediately notify Customer of the anticipated time to resolve the issue.

In the event that the issue is classified as a level 1 or level 2, Licensor will immediately assign a senior Product Developer to work exclusively on the issue. Additionally, the COO will be notified and the issue resolution will be given top priority. If the fix will require more than one business week to implement, Licensor and Customer will mutually agree on a resolution timetable and Licensor will provide updates at agreed upon intervals via email and/or telephone calls. Interim workarounds, if any, will also be communicated during the initial meeting and any subsequent communications should a workaround become available after the initial meeting.

Failure to meet the mutually agreed upon maintenance response timetable in the preceding paragraphs using reasonable commercial efforts will result, at the Customer's option, in triggering the Dispute Resolution provisions outlined in section 13.

**EXHIBIT D**  
**SERVICE LEVEL AGREEMENT**

1. Licensor may schedule no more than 5 hours per week for routine maintenance, back-ups and data loads. Licensor may or may not choose to use this time for maintenance, back-ups and data loads, but downtime in this period will not count against Licensor's service availability commitment. For major new releases Licensor may from time to time require longer planned maintenance window. In the case of longer planned maintenance due to major releases, Customer shall be notified twenty-four (24) hours in advance of any scheduled down-time. Release builds and routine maintenance will typically be performed on weekends between 7:00 a.m. Eastern Time Saturday morning and Sunday 12:00 p.m. Eastern Time. Occasionally, bug fix builds will need to be performed during the business week. If a bug fix build is required to be performed during the business week, it will take place after 9:00 p.m. Eastern Time.
2. The Hosting Services shall be deemed "unavailable" if Customer is unable for all practical business purposes to transmit data to or receive data from the Hosting Environment, provided that the inability to transmit and receive data is not due to problems with non-Hosting Environment equipment, services, communication lines, or other products.
3. Failure to meet Availability service levels will result in penalties and will not be considered a breach of this Agreement. Penalties will be calculated according to the following matrix if Licensor falls below minimum service levels detailed below. All percentages exclude planned maintenance.

<b>Availability</b>	
Guaranteed System Availability Percentage	99.7% of Total Hours Per Month (excluding planned maintenance referenced in 1.1 above)
Credit to Customer's Account	3% of monthly fee for each 1% of the time period that the Services are down beyond committed levels
Penalty Cap	Maximum = Monthly fee

**HIDALGO COUNTY PURCHASING DEPARTMENT**  
**SOLE SOURCE AFFIDAVIT**

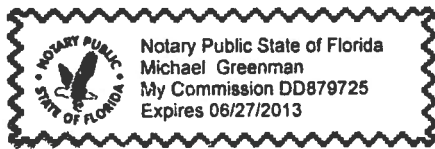
**THIS IS AN OFFICIAL PURCHASING DOCUMENT-RETAIN WITH PURCHASE ORDER**

Before me, the undersigned official, on this day, personally appeared Bill Murphy  
a person known to me to be the person whose signature appears below, whom after being duly sworn upon his/her oath deposed and said:

1. My name is Bill Murphy. I am over the age of 18, have never been convicted of crime and am competent to make this affidavit.
2. I am an authorized representative of the following company or firm: SOE Software.
3. The above named company or firm is the sole source for the following item(s), product(s) or service(s):  
Clarity Election Night Reporting (ENR)  
Clarity Control Election Project Mgmt
4. Competition in providing the above named item(s), product(s), service(s) is precluded by the existence of a patent, copyright, secret process or monopoly as stated under Section 262.024(a)(7)(A), of the Local Government Code. Also, attached hereto is a sole source letter, which sets forth the reasons why this Vendor is a sole source provider (dated and signed).
5. There is/are no other like item(s) or product(s) available for purchase that would serve the same purpose or function.
6. Note: This Vendor understands that by providing false information on this Sole Source Affidavit, it may be considered a non-responsible Vendor on this and future purchases and may result in discontinuations of any/all business with Hidalgo County.

Signature [Handwritten Signature]

SWORN AND SUBSCRIBED TO under oath before me on 6<sup>th</sup> day of June, 2008<sup>12</sup>.



[Handwritten Signature]  
NOTARY PUBLIC  
Michael Greenman  
PRINTED NAME  
6/27/2013  
MY COMMISSION EXPIRES

COMPANY NAME: SOE Software  
ADDRESS, CITY, STATE & ZIP CODE: 5426 Bay Center Dr. Ste 525  
PHONE: (813) 865-7548 NUMBER:  
CONTACT NAME AND TITLE: Bill Murphy, Director of Business Development  
WEB ADDRESS: www.SOEsoftware.com EMAIL: bmurphy@soesoftware.com  
FEDERAL TAX ID NUMBER: 82-0565032 TEXAS SALES TAX NUMBER: N/A