



**SOFTWARE LICENSE, MAINTENANCE, AND SUPPORT AGREEMENT
BETWEEN BROWARD COUNTY AND MTS SOFTWARE SOLUTIONS, INC.**

This Software License, Maintenance, and Support Agreement (the "Agreement") is made and entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and MTS Software Solutions, Inc., a Florida corporation authorized to transact business in the state of Florida ("Provider").

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1 Board. The Board of County Commissioners of Broward County, Florida.
- 1.2 Business hours or business day. 7 a.m. to 7 p.m. Eastern Time during weekdays that are not County holidays and on which County has not otherwise declared its offices closed.
- 1.3 Contract Administrator. The Director of Water and Wastewater Services or such person's successor as designated by County in writing.
- 1.4 Designated Equipment. Any hardware products, other equipment, or configurations that meet the minimum specifications for the applicable Software.
- 1.5 Documentation. All manuals, user documentation, specifications, and other related materials pertaining to the Software that Provider customarily furnishes to licensees of the Software and purchasers of the services covered by this Agreement.
- 1.6 Purchasing Director. The Broward County Purchasing Director as appointed by the Broward County Administrator.
- 1.7 Services. All required installation, integration, programming, configuration, customization, and enhancements of the Software, together with necessary and appropriate consulting, training, and project management services, to meet County's ongoing needs in connection with the Software, as further specified in Exhibit A.
- 1.8 Software. All proprietary or third-party software or other intellectual property rights, including the Documentation, provided or licensed to County or third party users pursuant to this Agreement or any applicable Work Authorization, including the computer programs (in machine readable object code form) listed in Exhibit A and any subsequent updates, upgrades, releases, or enhancements thereto developed by Provider during the term of this Agreement.
- 1.9 Support and Maintenance Services. The support and maintenance services required for County to achieve and maintain optimal performance of the Software, including as further described in Exhibit C.

ARTICLE 2. EXHIBITS

The following exhibits are attached hereto and incorporated into this Agreement:

Exhibit A	Statement of Work
Exhibit B	Payment Schedule
Exhibit C	Support and Maintenance Services
Exhibit D	Insurance Coverages
Exhibit E	Work Authorization Form

If there is a conflict or inconsistency between any provision contained in Articles 1 - 13 and any provision contained in any of the Exhibits, the provision of Articles 1 - 13 shall prevail and be given effect unless expressly stated to the contrary.

ARTICLE 3. SCOPE OF SERVICES & LICENSE

3.1 Scope of Services. Provider shall perform all work specified in this Agreement inclusive of the Exhibits. Unless stated otherwise in this Agreement, the work required of Provider includes all labor, materials and tasks, whether or not enumerated in the Agreement, that are such an inseparable part of the work expressly stated in the Agreement that exclusion thereof would render Provider's performance impractical, illogical, or unconscionable.

3.2 License. To the extent not previously granted, Provider grants to County a perpetual, royalty-free, nonexclusive license, with no geographical limitations, as set forth in Exhibit A, to the Software including to any embedded third party software within the Software, for use solely for County governmental and business purposes including on- and off-site access and use of the Software by authorized third party users, including those persons or entities with which County may contract to operate the Software, and for the benefit of and use by all governmental entities within County, including the offices of the County constitutional officers.

3.2.1 Authorized Users and Additional Licenses. Unless otherwise stated in Exhibit A (Statement of Work), County and any of its employees, agents, or suppliers of services shall have the right to concurrently operate and use the Software for County governmental or business purpose. If anything less than unlimited, concurrent use is expressly provided under this Agreement and additional licenses may be required, County's Purchasing Director is authorized to execute a Work Authorization (Exhibit E hereto) to purchase additional licenses for the fee specified in Exhibit B.

3.2.2 Additional Uses. County may, if required by reason of an emergency, disaster or operational need, or for testing of recovery resources, temporarily use the Software on recovery resources at no additional cost, including recovery resources that may not be owned by County. County may, at no additional cost, copy the Software for backup and archiving purposes for the purposes of support or maintenance by County or others hired by County to provide such support or maintenance. County may, at no additional cost, utilize a hosted environment, including

without limitation through a third-party hosting provider, for all otherwise permitted uses of the Software.

3.2.3 Prohibited Uses. Except as otherwise provided for in this Agreement or required under Florida law, County shall not reproduce, publish, or license the Software to others. County shall not modify, reverse engineer, disassemble, or decompile the Software or any portion thereof, except (a) to the extent expressly authorized in Exhibit A, in which event such authorized actions shall be deemed within the license grant of Section 3.2, or (b) to the extent permitted under any applicable open source license.

3.3 Support and Maintenance Services. Provider shall provide County with Support and Maintenance Services for the Software as set forth in Exhibit C. Support and Maintenance Services shall be invoiced and paid in accordance with the Payment Schedule set forth in Exhibit B.

3.3.1 Updates, Upgrades and Releases. For the full term of this Agreement, Provider shall promptly provide to County, with advance notice and at no additional cost, any and all updates (including error corrections, bug fixes, security updates, and patches), upgrades, or new releases to the Software including all that Provider has made available to other licensees of all or part of the Software licensed pursuant hereto. All such updates, upgrades, and new releases shall remain the sole property of Provider and shall be deemed to be included within the scope of the license granted under this Agreement.

3.3.2 Compatibility. For the full term of this Agreement, Provider will ensure the continued compatibility of the Software with all major releases, updates, or upgrades of any third party software used by County for access or operation of the Software. In the event Provider is not be able to support any third party software update, upgrade or new release that changes major functionality and is not backwards compatible with the Software, Provider shall use all reasonable efforts to resolve such issues and to provide optimal functionality of the Software in accordance with this Agreement. If Provider is unable to provide continued optimal functionality of the Software in accordance with this Agreement due to any applicable third party software release, update or upgrade, County shall be entitled to terminate the Agreement upon written notice with no further obligation to Provider.

3.3.3 Software Enhancements or Modifications. If requested by County, Provider shall incorporate certain features and enhancements into the licensed Software, and the source code for those features and enhancements shall be provided to and be the property of County. Any such request shall be formalized into a Statement of Work that shall define in detail the services to be performed, the financial terms, and the proposed project staffing and schedule. Any such Statement of Work shall be incorporated into a Work Authorization, to the extent permitted by section 3.5 below, or otherwise into a proposed amendment to this Agreement.

3.4 Other Equipment. County may install, use and operate the Software on the Designated Equipment. County may also install, use and operate the Software on separate servers and in

any and all development, test, failover, disaster recovery, and backup configurations, at no additional fee.

3.5 Change of Scope Procedures. Provider acknowledges that Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the scope of services to be provided under this Agreement except as expressly provided herein. To the extent any goods or services under this Agreement, or the quantity thereof, are optional ("Optional Services"), County may select the type, amount, and timing of such goods or services pursuant to a Work Authorization (Exhibit E hereto) executed by the Provider and County pursuant to this Section, and provided that no such selection, when combined with those goods or services required under the Agreement, would result in a payment obligation exceeding the applicable maximum amount stated in Section 5.1. Notwithstanding anything to the contrary in the Agreement, Work Authorizations for Optional Services pursuant to this Section shall be executed on behalf of the County as follows: the Contract Administrator may execute any Work Authorization for which the total cost to County is less than \$30,000.00; the Purchasing Director may execute any Work Authorization for which the total cost to the County is within the Purchasing Director's delegated authority; any Work Authorizations above the County's Purchasing Director delegated authority shall require Board approval. Subsequent to the full execution any Work Authorization, the Contract Administrator will issue a Notice to Proceed for those authorized Optional Services. Provider shall not commence work on any Work Authorization until after receipt of the applicable Notice to Proceed.

ARTICLE 4. TERM AND TIME OF PERFORMANCE

4.1 Term. The Agreement shall become effective on September 18, 2015 or when fully executed by the parties, whichever happens later (the "Effective Date") and shall expire on December 31, 2017 unless extended in accordance with the terms of this Agreement.

4.2 Extensions. In the event that unusual or exceptional circumstances, as determined in the sole discretion of the Purchasing Director, render the exercise of an extension not practicable or if no extension is available, and expiration of this Agreement would result in a gap in the provision of services necessary for the ongoing operations of the County, then this Agreement may be extended on the same terms and conditions by the Purchasing Director for period(s) not to exceed six (6) months in the aggregate, provided that any such extension is within the authority of the Purchasing Director or otherwise authorized by the Board.

4.3 Fiscal Year. The continuation of this Agreement beyond the end of any County fiscal year shall be subject to both the appropriation and the availability of funds, in accordance with Chapter 129, Florida Statutes.

4.4 Timetable. County acknowledges that Provider has already received Final Acceptance of all previously licensed Software. To the extent County purchases any additional Software under this Agreement through a Work Authorization, if Provider fails to achieve Final Acceptance within the time stated in the applicable Work Authorization, County shall have the option to cancel the

applicable Work Authorization by written notice from its Contract Administrator, in which event all sums paid by County under the applicable Work Authorization shall be reimbursed to County by Provider within 15 days. For purposes of this paragraph, any delays caused by County prior to Final Acceptance shall extend the Final Acceptance deadline by the same number of days as the delay caused by County.

4.5 Time is of the essence for all performance required under this Agreement.

ARTICLE 5. COMPENSATION

5.1 For the duration of the Agreement, County will pay Provider in accordance with Exhibit B up to the following maximum amount(s):

Services/Goods	Term	Not-To-Exceed Amount
License(s), Services, and Support and Maintenance	Duration of the Agreement	\$90,000
Additional Optional Licenses	Duration of the Agreement	\$20,000
Optional Services (other than additional optional licenses)	Duration of the Agreement	\$25,000
TOTAL NOT TO EXCEED		\$135,000

Payment shall be made only for work actually performed and completed pursuant to this Agreement, as set forth in Exhibit B (Payment Schedule), which amount shall be accepted by Provider as full compensation for all such work. Provider acknowledges that the amounts set forth herein are the maximum amounts payable for the respective terms and constitute a limitation upon County's obligation to compensate Provider for its work under this Agreement. These maximum amounts, however, do not constitute a limitation of any sort upon Provider's obligation to perform all items of work required under this Agreement. Unless otherwise expressly stated in this Agreement, Provider shall not be reimbursed for any expenses it incurs under this Agreement.

5.2 Method of Billing and Payment

5.2.1 Invoices. Provider may submit invoices only for goods provided and services completed in accordance with the Payment Schedule set forth in Exhibit B. Unless otherwise indicated in Exhibit B, an original plus one copy of each invoice must be submitted within fifteen (15) days after the end of the month for which payment is sought, except that the final invoice must be submitted no later than sixty (60) days after all services are completed.

5.2.2 Payments. County shall pay Provider within thirty (30) days of receipt of Provider's proper invoice, as required by the "Broward County Prompt Payment Ordinance" (Broward County Ordinance No. 89-49). Payment shall be made to Provider at the most recent address designated under the "Notices" provision of this Agreement. To be deemed proper, an invoice must comply with all requirements set forth in this Agreement and must be submitted pursuant

to any instructions prescribed by the Contract Administrator. County shall have the right to withhold payment of the invoice based on Provider's failure to comply with any term, condition, or requirement of this Agreement. The parties hereto agree that any amounts so withheld shall not be subject to payment of any interest by County.

5.3 Travel. With respect to travel costs and travel-related expenses, Provider agrees to adhere to Section 112.061, Florida Statutes, except to the extent, if any, that Exhibit B expressly provides to the contrary. County shall not be liable for any such expenses that have not been approved in advance, in writing, by County.

5.4 Fixed Pricing. Prices set forth in Exhibit B shall remain firm and fixed for the term of the Agreement, including any option terms. However, Provider may offer incentive or volume discounts to County at any time.

ARTICLE 6. DELIVERY, TESTING AND ACCEPTANCE

6.1 Software. Provider has previously delivered the Software listed in Exhibit A and County has paid in full for all such Software. To the extent any additional Software is acquired under a Work Authorization (Exhibit E), Provider shall, within seven (7) days after the effective date of the Work Authorization, make the Software available to County and deliver to County a master copy of the Software licensed thereunder in object code form, suitable for reproduction in accordance with this Agreement, in electronic files unless otherwise requested by County. All County license keys, usernames, and passwords shall be authenticated by Provider and perform according to the Statement of Work attached to the applicable Work Authorization.

6.2 Services. Provider shall complete all Services to the extent stated in Exhibit A in connection with the installation and integration of the Software.

6.3 Documentation. For any previously acquired Software, Provider represents that it has already delivered to County copies of the Documentation. To the extent any additional Software is purchased pursuant to a Work Authorization, Provider shall deliver copies of the Documentation concurrently with delivery of the Software. For all Software, Provider shall promptly provide any updated Documentation as it becomes available during the term of this Agreement. Provider represents and warrants that the Documentation is sufficiently comprehensive and of sufficient quality to enable a competent user to operate the Software efficiently and in accordance with the applicable Statement of Work. County has the right to copy and modify the Documentation as it deems necessary for its own internal use.

6.4 Final Acceptance Testing. To the extent any additional Software and associated services are purchased, there shall be a testing period during which County, with the assistance of its Enterprise Technology Services ("ETS") to the extent applicable under Broward County Administrative Code Section 22.148, shall determine whether the Software: (i) properly functions on the Designated Equipment and with any applicable operating software; (ii) provides the capabilities as stated in this Agreement and in the Documentation; and (iii) to the extent stated,

meets the Acceptance Criteria set forth in Exhibit A (the criteria referenced in (i), (ii), and (iii) are collectively referred to as the criteria for "Final Acceptance"). In the event of a conflict between the Acceptance Criteria and the Documentation, the Acceptance Criteria shall prevail.

6.4.1 The testing period shall commence on the first business day after Provider informs County in writing that it has completed the Services required to be performed prior to testing and that the Software is ready for testing, and shall continue for a period of up to thirty (30) days.

6.4.2 During the testing period, County may notify Provider in writing of any error or defect in the Software so that Provider may make any needed modifications or repairs. If Provider so elects in writing, testing will cease until Provider resubmits for Final Acceptance testing, at which time the testing period shall be reset to that of a first submission for testing.

6.4.3 County shall notify Provider in writing of its Final Acceptance or rejection of the Software, or any part thereof, within fifteen (15) days after the end of the testing period, as same may be extended or reset. If County rejects the Software, or any part thereof, County shall provide notice identifying the criteria for Final Acceptance that the Software failed to meet. Following such notice, Provider shall have thirty (30) days to (a) modify, repair, or replace the Software or any portion thereof, or (b) otherwise respond to County's notice. If Provider modifies, repairs, or replaces the Software or portion thereof, the testing period shall recommence consistent with the procedures set forth above in this section 6.4.

6.4.4 In the event Provider fails to remedy the reason(s) for County's rejection of the Software, or any part thereof, within ninety (90) days after County's initial notice of rejection, County may elect, in writing, to either accept the Software as it then exists or to reject the Software and terminate the Agreement or applicable Work Authorization. If County elects to reject the Software and terminate the Agreement or applicable Work Authorization, all sums paid by County under the Agreement or applicable Work Authorization shall be reimbursed to County by Provider within 15 days after such election is made. If County elects to accept the Software as it then exists (partial acceptance), Provider shall continue to use its best efforts to remedy the items identified in the applicable notice of rejection. If, despite such continuing best efforts, Provider fails to remedy the issue(s) identified by County within a reasonable time as determined by County, then County shall be entitled to deduct from future sums due under the Agreement the value of the rejected portion of the Software as mutually determined by the parties. If the parties cannot agree upon such value, County shall have the right to reject the Software and terminate the Agreement or applicable Work Authorization on the terms stated above in this paragraph.

ARTICLE 7. PROTECTION OF SOFTWARE AND PROPRIETARY RIGHTS

7.1 County Proprietary Rights. Provider acknowledges and agrees that County retains all rights, title and interest in and to all materials, data, documentation and copies thereof furnished by County to Provider hereunder, including all copyright and other proprietary rights therein, which Provider as well as its employees, agents, subconsultants and suppliers may use only in

connection with the performance of Services under this Agreement. All rights, title and interest in and to certain ideas, designs and methods, specifications, and other documentation related thereto developed by Provider and its subconsultants specifically for County (collectively, "Developed Works") shall be and remain the property of County. Accordingly, neither Provider nor its employees, agents, subconsultants or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of Provider, or any employee, agent, subconsultants or supplier thereof, without the prior written consent of County, except as required for Provider's performance hereunder.

7.2 Ownership. Except for custom work products, if any, County acknowledges that all copies of the Software (in any form) provided by Provider are the sole property of Provider. County shall not have any right, title, or interest to any such Software or copies thereof except as expressly provided in this Agreement, and shall take all reasonable steps to secure and protect all Software consistent with maintenance of Provider's proprietary rights therein.

ARTICLE 8. CONFIDENTIAL INFORMATION, SECURITY AND ACCESS

8.1 Public Records Law. As a political subdivision of the State of Florida, County is subject to Florida's Public Records Law, Chapter 119 of the Florida Statutes. Notwithstanding anything else in this Agreement, any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119 shall not constitute a breach of this Agreement.

8.2 Provider Confidential Information. Provider represents that the Software contains proprietary products and trade secrets of Provider. Accordingly, to the full extent permissible under applicable law, County agrees to treat the Software as confidential in accordance with this Article.

8.3 County Confidential Information.

8.3.1 All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods that Provider obtains from County in connection with the Services performed under this Agreement, that are made or developed by Provider in the course of the performance of the Agreement, or in which County holds proprietary rights, constitute County Confidential Information.

8.3.2 All County-provided employee information, financial information, and personally identifiable information for individuals or entities interacting with County (including, without limitation, social security numbers, birth dates, banking and financial information, and other information deemed exempt or confidential under state or federal law) also constitute County Confidential Information.

8.3.3 County Confidential Information may not, without the prior written consent of County, or as otherwise required by law, be used by Provider or its employees, agents, subconsultants or suppliers for any purpose other than for the benefit of County pursuant to this

Agreement. Neither Provider nor its employees, agents, subconsultants or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to any other person or entity any County Confidential Information without the prior written consent of County.

8.3.4 Provider expressly agrees to be bound by and to defend, indemnify and hold harmless County and its officers and employees from the breach of any federal, state or local law by Provider or its employees, agents, subconsultants or suppliers regarding the unlawful use or disclosure of County Confidential Information.

8.3.5 Upon expiration or termination of this Agreement, or as otherwise demanded by County, Provider shall immediately turn over to County all County Confidential Information, in any form, tangible or intangible, possessed by Provider or its employees, agents, subconsultants or suppliers.

8.4 Maintenance of Confidential Information. Each party shall advise its employees, agents, subconsultants and suppliers who receive or otherwise have access to the other party's Confidential Information of their obligation to keep such information confidential, and shall promptly advise the other party in writing if it learns of any unauthorized use or disclosure of the other party's Confidential Information. In addition, the parties agree to cooperate fully and provide all reasonable assistance to ensure the confidentiality of the other party's Confidential Information.

8.5 Security and Access. If Provider has access to or may be required to access the County network in connection with any of the work or Services provided under this Agreement, Provider will cooperate with County and provide any and all information that County may request in order to determine appropriate security and network access restrictions and verify Provider's compliance with County security standards. Any access by Provider to any aspect of the County's network must comply at all times with all applicable County access and security standards, as well as any other or additional restrictions or standards for which County provides written notice to Provider. If at any point in time County, in the sole discretion of its Chief Information Officer, determines that Provider's access to any aspect of the County's network presents an unacceptable security risk, County may immediately suspend or terminate Provider's access and, if the risk is not promptly resolved to the reasonable satisfaction of the County's Chief Information Officer, may terminate this Agreement or any applicable Work Authorization upon ten (10) business days' notice (including, without limitation, without restoring any access to the County network to Provider).

8.6 Data and Privacy. Provider shall comply with all applicable data and privacy laws and regulations, including without limitation the Florida Information Protection Act of 2014, Florida Statutes Section 501.171. Provider may not sell, market, publicize, distribute, or otherwise make available to any third party any personal identification information (as defined by Florida Statutes Section 817.568 or Section 817.5685) that Provider may receive or otherwise have access to in connection with this Agreement, unless expressly authorized in advance by County. If and to the extent requested by County, Provider shall ensure that all hard drives or other storage devices

and media that contained County data have been wiped in accordance with the then-current best industry practices, including without limitation DOD 5220.22-M, and that an appropriate data wipe certification is provided to the satisfaction of the Contract Administrator.

8.7 Injunctive Relief. The parties represent and agree that neither damages nor any other legal remedy is adequate to remedy any breach of this Article, and that the injured party shall therefore be entitled to injunctive relief to restrain or remedy any breach or threatened breach.

8.8 Survival. The obligations under this Article 8 shall survive the termination of this Agreement or of any license granted under this Agreement.

ARTICLE 9. WARRANTIES

9.1 Ownership. Provider represents and warrants that it is the owner of all right, title, and interest in and to the Software, that it has the right to grant to County the rights and the licenses granted under this Agreement, and that it has not knowingly granted rights or licenses to any other person or entity that would restrict rights and licenses granted hereunder, except as may be expressly stated herein.

9.2 Limited Warranty. For the full term of this Agreement, Provider represents and warrants to County that the Software, when used with the Designated Equipment, will perform substantially as described in the Documentation and in the Statement of Work (Exhibit A). This warranty does not cover any failure of the Software resulting from (a) use of the Software in other than the manner for which it was intended; (b) any modification of the Software by County that is not authorized by Provider; or (c) County providing improperly formatted data to be processed through the Software.

9.3 Warranty Regarding Viruses. Provider further represents, warrants, and agrees that the Software is free from currently-known viruses or malicious software (at the time the Software and any subsequent version thereof is provided to County), and that Provider has and will continue, for the full term of this Agreement, to use commercially reasonable security measures to ensure the integrity of the Software from data leaks, hackers, denial of service attacks, and other unauthorized intrusions.

9.4 Intellectual Property Warranty. Provider represents and warrants that at the time of entering into this Agreement, no claims have been asserted against Provider (whether or not any action or proceeding has been brought) that allege that any part of the Software infringes or misappropriates any patent, copyright, mask copyright or any trade secret or other intellectual or proprietary right of a third party, and that Provider is unaware of any such potential claim. Provider also agrees, represents and warrants that the Software and Services to be provided pursuant to this Agreement will not infringe or misappropriate any patent, copyright, mask copyright or any trade secret or other intellectual or proprietary right of a third party.

9.5 **Quality of Performance and Materials.** Provider represents and warrants that all Services provided under this Agreement will be performed by a person duly qualified and sufficiently experienced to perform such Services and, where required, licensed by all appropriate governmental authorities in the applicable area(s). Provider agrees that all Services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all such Services shall meet or exceed prevailing industry and professional standards for such Services. Provider represents and warrants that all materials, equipment, and products furnished pursuant to this Agreement shall be of good quality and free from defective or inferior workmanship; any items found not to be conformance with the foregoing and with the applicable specifications (if any) in Exhibit A shall be replaced by Provider at no additional cost to County. If requested by County's Contract Administrator, Provider shall develop and utilize a quality assurance plan approved by County to ensure the appropriate quality of the work and materials provided under this Agreement.

9.6 **Remedy.** In the event of written notice from County of a breach of any representation or warranty stated in this Article 9, Provider will, at no charge to County, promptly correct the breach by either (a) correcting or updating the Software or (b) providing to County other measures that correct the breach. In addition, upon notice from County of any error or defect in the Software, Provider will immediately provide to County any known methods of operating the Software in a manner that eliminates the practical adverse effects of the error or defect. If Provider is unable to correct a material breach of this Article within a reasonable period of time not to exceed fifteen (15) business days, County shall be entitled to cancel the Agreement and receive a full refund of all amounts paid to Provider. In the event of any Software replacement, the Software as replaced will be warranted as provided above. The remedies in this Section 9.5 are in addition to any other rights and remedies County may have under this Agreement or applicable law.

ARTICLE 10. INDEMNIFICATION AND LIMITATION OF LIABILITY

10.1 **Indemnification.** Provider shall be fully liable for the actions of its current and former officers, employees, subcontractors and other agents under this Agreement. Provider shall at all times hereafter indemnify, hold harmless and defend County and all of County's current and former officers, employees and other agents (collectively, "Indemnified Party") from and against any and all lawsuits, causes of action, demands, claims, losses, fines, penalties, damages, judgments, liabilities and expenditures of any kind, including attorneys' fees, litigation expenses, and court costs (collectively, "Claim"), raised or asserted by any person or entity that is not a party to this Agreement, which Claim is caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of Provider or any current or former officer, employee, subcontractor or other agent of Provider, arising from, relating to, or in connection with any obligation or performance under this Agreement. In the event any Claim is brought against an Indemnified Party, Provider shall, upon written notice from County, defend each Indemnified Party against each such Claim through counsel satisfactory to County or, at County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The provisions and obligations of this section shall survive the expiration or earlier termination

of this Agreement. To the extent considered necessary by the County Attorney, in his or her reasonable discretion, any sums due Provider under this Agreement may be retained by County until all Claims subject to this indemnification obligation have been resolved. Any sums so withheld shall not be subject to the payment of interest by County.

10.2 Limitation of Liability. Neither Provider nor County shall be liable to the other party for any damages under this Agreement that exceed the largest of the following amounts: (a) \$100,000; (b) twice the maximum compensation amount specified in section 5.1 above; or (c) the amount of insurance Provider is required to provide under Article 11 below. Neither party shall be liable for the other party's special, indirect, punitive, or consequential damages (including damages resulting from lost data or records other than costs incurred in the recovery thereof), even if the party has been advised that such damages are possible, or for the other party's lost profits, lost revenue, or lost institutional operating savings. These limitations of liability shall not apply to (i) any Claim resulting from Provider's actual or alleged disclosure of County Confidential Information or resulting from an actual or alleged data breach in violation of applicable law, (ii) any Claim resulting from an actual or alleged infringement of any interest in any Software or other intellectual property, or (iii) any indemnification obligation under this Agreement.

10.3 Infringement Remedy. If any Software or portion of the Software is finally adjudged to infringe, or in Provider's opinion is likely to become the subject of such a Claim, Provider shall, at County's option, either: (i) procure for County the right to continue using the Software; (ii) modify or replace the Software to make it noninfringing; or (iii) refund to County all fees paid under this Agreement. Provider shall have no liability regarding any infringement claim caused by any County modification of the Software not specifically authorized in writing by Provider.

ARTICLE 11. INSURANCE

11.1 Provider shall maintain at its sole expense, on a primary basis, at all times during the term of this Agreement (unless a different time period is otherwise stated herein), at least the minimum insurance coverage designated in Exhibit D in accordance with the terms and conditions stated in this Article.

11.2 Such policies shall be issued by U.S. Treasury approved companies authorized and licensed to transact business in the State of Florida, with a minimum AM Best financial rating of A-, unless otherwise approved in writing by County. If any deductible amounts are permitted in Exhibit D, Provider shall be responsible for the payment of all such deductible amounts.

11.3 Provider agrees to list County as an additional insured under Provider's commercial liability insurance policy and any excess liability insurance policy. The listed certificate holder on all required policies shall be "Broward County."

11.4 Coverage shall be provided on forms no more restrictive than the latest edition of the applicable forms filed by the Insurance Services Office.

11.5 Provider shall notify County in writing within thirty (30) days after Provider learns of any claim against Provider's professional liability insurance policy in which damages claimed plus defense costs incurred to date exceed \$250,000.

11.6 Within fifteen (15) days of execution of this Agreement, Provider shall provide County with proof of insurance in the form of Certificate(s) of Insurance and applicable endorsements. Failure to timely provide acceptable proof of insurance, as determined by County, shall entitle County to terminate this Agreement without any liability to Provider.

11.7 All insurance policies required under this Article must expressly provide County with at least thirty (30) days' prior written notice of expiration, cancellation, or restriction of coverage. Provider shall provide certified copies of any policy to County upon County's request.

11.8 If Provider subcontracts any work under this Agreement, Provider shall ensure that each subcontractor names County as an additional insured under the subcontractor's general liability insurance policy and any excess liability insurance policy.

ARTICLE 12. TERMINATION

12.1 This Agreement may be terminated for cause based on any breach that is not cured within ten (10) days after written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by the Board upon providing written notice to Provider of the termination date, which shall be not less than thirty (30) days after the date such written notice is provided. If County erroneously, improperly, or unjustifiably terminates for cause, such termination shall, to the full extent permissible under applicable law, be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

12.2 County may terminate this Agreement if Provider is found to have submitted a false certification pursuant to Section 287.135, Florida Statutes, if Provider has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or if Provider has failed to promptly implement corrective action for audit deficiencies upon reasonable notice by County. Notwithstanding anything contained in this Agreement to the contrary, the rights and obligations of the parties under this paragraph shall be governed by Section 287.135, Florida Statutes, to the full extent applicable.

12.3 Provider represents that neither it nor any of its affiliates has been placed on the discriminatory vendor list, as defined by Section 287.134, Florida Statutes. County may terminate this Agreement effective immediately, without any further obligation to Provider, upon learning that such representation is false or if Provider or any of its affiliates is placed on the discriminatory vendor list.

12.4 Additionally, and notwithstanding anything to the contrary in this Agreement, County may terminate this Agreement without any further liability to Provider upon the decertification of Provider as a Certified Business Entity ("CBE") by County's Office of Economic and Small Business Development ("OESBD"), if Provider's status as a CBE was a factor in the award of the Agreement and such status was misrepresented by Provider. However, such termination shall not be effective until expiration of any timely-filed review or appeal of the decertification decision.

12.5 Notice of termination shall be provided in accordance with the "Notices" section of this Agreement.

12.6 In the event this Agreement is terminated for convenience, Provider shall be paid for any services properly performed through the termination date specified in the written notice of termination. Provider acknowledges that it has received good, valuable and sufficient consideration from County, the receipt and adequacy of which are hereby acknowledged by Provider, for County's right to terminate this Agreement for convenience, and Provider hereby waives, to the full extent permissible under applicable law, any and all rights to challenge the adequacy of such consideration or the validity of County's right to terminate for convenience.

ARTICLE 13. MISCELLANEOUS

13.1 Rights in Documents and Work. Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement shall be and remain the property of County and, if a copyright is claimed, Provider hereby grants to County a nonexclusive perpetual license to use the copyrighted item(s), to prepare derivative works, and to make and distribute copies to the public. In the event of termination or expiration of this Agreement, any reports, photographs, surveys, and other data and documents prepared by Provider, whether finished or unfinished, shall become the property of County and shall be delivered by Provider to the Contract Administrator within seven (7) days of termination or expiration of this Agreement by either party.

13.2 Audit Right and Retention of Records. County shall have the right to audit the books, records, and accounts of Provider and its subcontractors that are related to this Agreement. Provider and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement and performance thereunder. All books, records, and accounts of Provider and its subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Provider or its subcontractor, as applicable, shall make same available at no cost to County in written form.

Provider and its subcontractors shall preserve and make available, at reasonable times within Broward County for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a minimum period of three (3) years after expiration or termination of this Agreement or until

resolution of any audit findings, whichever is longer. County audits and inspections pursuant to this Section may be performed by any County representative (including any outside representative engaged by County). County reserves the right to conduct such audit or review at Provider's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this Section discloses overpricing or overcharges to County of any nature by the Provider in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of the County's audit shall be reimbursed to the County by the Provider in addition to making adjustments for the overcharges. Any adjustments and/or payments due as a result of such audit or inspection shall be made within thirty (30) days from presentation of County's findings to Provider.

Provider shall ensure that the requirements of this Section are included in all agreements with its subcontractor(s).

13.3 Public Records. To the extent Provider is acting on behalf of the County as stated in Section 119.0701, Florida Statutes, the Provider shall:

- a. Keep and maintain public records that ordinarily and necessarily would be kept and maintained by County were County performing the services under this Agreement;
- b. Provide the public with access to such public records on the same terms and conditions that County would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- c. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
- d. Meet all requirements for retaining public records and transfer to County, at no cost, all public records in possession of Provider upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to County in a format that is compatible with the information technology systems of County.

The failure of Provider to comply with the provisions of this Section shall constitute a material breach of this Agreement entitling the County to exercise any remedy provided in this Agreement or under applicable law.

13.4 Truth-In-Negotiation Representation. Provider's compensation under this Agreement is based upon representations supplied to County by Provider, and Provider certifies that the

information supplied is accurate, complete, and current at the time of contracting. County shall be entitled to recover any damages it incurs to the extent such representation is untrue.

13.5 Public Entity Crime Act. Provider represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, Provider further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Provider has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this paragraph is false, County shall have the right to immediately terminate this Agreement and recover all sums paid to Provider under this Agreement.

13.6 Independent Contractor. Provider is an independent contractor under this Agreement. Provider shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

13.7 Third Party Beneficiaries. The parties acknowledge that there are no third party beneficiaries under this Agreement.

13.8 Notices. In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change.

NOTICE TO COUNTY:

Broward County Water and Wastewater Services Division
Attn: Mary Murphy
2555 W. Copans Road
Pompano Beach, Florida 33069
Email address: mmurphy@broward.org

NOTICE TO PROVIDER:

MTS Software Solutions, Inc.
Attn: Jeffrey Pulda, Account Manager
2100 Park Central Blvd. # 300
Pompano Beach, FL 33064
Email address: jpulda@mts-software.net

13.9 Assignment. Except for subcontracting approved by County at the time of its execution of this Agreement or any written amendment hereto, neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by Provider without the prior written consent of County. If Provider violates this provision, County shall have the right to immediately terminate this Agreement.

13.10 Conflicts. Provider agrees that neither it nor its employees will have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Provider's loyal and conscientious exercise of the judgment and care required to perform under this Agreement. Provider further agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against County in any legal or administrative proceeding in which he, she, or Provider is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude Provider or any person from in any way representing themselves, including giving expert testimony in support thereof, in any administrative or legal proceeding. Provider agrees that each of its contracts with subcontractors performing under this Agreement shall contain substantively identical language to ensure that each subcontractor and its officers and employees meet the obligations contained in this paragraph.

13.11 Waiver of Breach. The failure of either party to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach under this Agreement shall not be deemed a waiver of any subsequent breach.

13.12 Compliance with Laws. Provider shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing under this Agreement.

13.13 Severability. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

13.14 Joint Preparation. This Agreement has been jointly prepared by the parties hereto, and shall not be construed more strictly against either party.

13.15 Headings and Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter," refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires.

13.16 Governing Law, Venue and Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the state of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the parties agree that the exclusive venue for any such lawsuit shall

be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, PROVIDER AND COUNTY HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CAUSE OF ACTION OR CLAIM ARISING FROM, RELATED TO, OR IN CONNECTION WITH THIS AGREEMENT.**

13.17 Amendments. No modification or amendment to this Agreement shall be effective unless it is in writing and executed by authorized representatives of each party. Without limiting the foregoing, the terms of this Agreement shall prevail over and against any additional or contrary terms and conditions in any format or medium whatsoever including, without limitation, shrinkwrap, click-through, or terms and conditions associated with any upgrade, update, release, patch, or other modification of the Software, unless expressly agreed to in writing by an amendment hereto executed by authorized representatives of each party.

13.18 Prior Agreements. This Agreement represents the final and complete understanding of the parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

13.19 HIPAA Compliance. It is understood by the parties that County personnel or their agents have access to protected health information (hereinafter known as "PHI") that is subject to the requirements of 45 C.F.R. § 160, 162, and 164 and related statutory and regulatory provisions. In the event Provider is considered by County to be a covered entity or business associate or otherwise required to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or the Health Information Technology for Economic and Clinical Health Act ("HITECH"), Provider shall fully protect individually identifiable health information as required by HIPAA and HITECH. If requested by County, Provider shall execute a Business Associate Agreement in the form set forth at www.broward.org/Purchasing/Pages/StandardTerms.aspx. Where required, Provider shall handle and secure such PHI in compliance with HIPAA, HITECH and its related regulations and, if required by HIPAA, HITECH, or other laws, shall include in its "Notice of Privacy Practices" notice of Provider's and County's uses of a client's PHI. The requirement to comply with this provision, HIPAA and HITECH shall survive the expiration or termination of this Agreement. County hereby authorizes the County Administrator to sign Business Associate Agreements if required under this Agreement.

13.20 Payable Interest

13.20.1 Payment of Interest. County shall not be liable to pay any interest to Provider for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Provider waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This paragraph shall not apply to any claim interest, including for post-judgment interest, if such application would be contrary to applicable law.

13.20.2 Rate of Interest. If, for whatever reason, the preceding subsection is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, 0.25% (one quarter of one percent) simple interest (uncompounded).

13.21 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated herein by reference.

13.22 Representation Of Authority. Each individual executing this Agreement on behalf of a party hereto represents and warrants that he or she is, on the date of execution, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority. Provider represents that it is an entity authorized to transact business in the State of Florida.

13.23 Domestic Partnership Requirement. Unless this Agreement is exempt from the provisions of Section 16½-157 of the Broward County Code of Ordinances, which requires County contractors to provide benefits to domestic partners of their employees, Provider agrees to fully comply with Section 16½-157 during the entire term of the Agreement. If Provider fails to fully comply with that section, such failure shall constitute a material breach which shall allow County to exercise any remedy available under this Agreement, under applicable law, or under section 16½-157. For that purpose, the contract language referenced in Section 16½-157 is incorporated herein as though fully set forth in this paragraph.

13.24 Drug-Free Workplace. It is a requirement of County that it enter into contracts only with firms that certify the establishment of a drug-free workplace in accordance with Chapter 21.31(a)(2) of the Broward County Procurement Code. Execution of this Agreement by Provider shall serve as Provider's required certification that it has or will establish a drug-free work place in accordance with Section 287.087, Florida Statutes, and Chapter 21.31(a)(2) of the Broward County Procurement Code, and that it will maintain such drug-free workplace for the full term of this Agreement.

13.25 Contingency Fee. Provider represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Provider, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If County learns that this representation is false, County shall have the right to terminate this Agreement without any further liability to Provider. Alternatively, if such representation is false, County, at its sole discretion, may deduct from the compensation due Provider under this Agreement the full amount of such fee, commission, percentage, gift, or consideration.

13.26 Living Wage Requirement. If Provider is a "covered employer" within the meaning of the Broward County Living Wage Ordinance, Broward County Code sections 26-100 – 26-105, Provider agrees to and shall pay to all of its employees providing "covered services," as defined

therein, a living wage as required by such ordinance, and Provider shall fully comply with the requirements of such ordinance. Provider shall be responsible for and shall ensure that all of its subcontractors that qualify as "covered employers" fully comply with the requirements of such ordinance.

13.27 Force Majeure. If the performance of this Agreement, or any obligation hereunder, is prevented by reason of hurricane, earthquake, or other casualty caused by nature, or by labor strike, war, or by a law, order, proclamation, regulation, or ordinance of any governmental agency, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, provided that the party so affected shall first have taken reasonable steps to avoid and remove such cause of nonperformance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other party in writing and resume performance hereunder whenever and to the full extent such causes are removed. However, if such nonperformance exceeds sixty (60) days, the party that is not prevented from performance by the force majeure event shall have the right to immediately terminate this Agreement upon written notice to the party so affected. This section shall not supersede or prevent the exercise of any right the parties may otherwise have to terminate this Agreement.

13.28 Nondiscrimination. Provider may not discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement, except that any project assisted by U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26. Provider shall include substantially similar language in its contracts with any and all permitted subcontractors or sub-consultants.

13.29 County Logo. Provider shall not use County's name, logo, or otherwise refer to this Agreement in any marketing or publicity materials without the prior written consent of County.

13.30 Counterparts. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Director of Purchasing, authorized to execute same and MTS Software Solutions, Inc., signing by and through its _____, duly authorized to execute same.

COUNTY

WITNESS:

[Signature]
(Signature)

HARER MAE MATTHEW
(Print Name of Witness)

[Signature]
(Signature)

Lucy Garcia
(Print Name of Witness)

BROWARD COUNTY, by and through
its Director of Purchasing

By: [Signature]
Director of Purchasing

21st day of September, 2015

Approved as to form by
Joni Armstrong Coffey
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: [Signature] 9/14/15
Rocio Blanco Garcia (Date)
Assistant County Attorney

Insurance requirements
Approved by Broward County
Risk Management Division

By: [Signature] (Date)

**Risk Management Division
Jacqueline A. Binns**

Print Name and Title Insurance and
Contracts Manager

RBG/RDH
2015-09-07 Fortis License and Maintenance Agreement
09/07/15
#15-099.01

PROVIDER

WITNESSES:

MTS Software Solutions, Inc.

[Signature]
Signature

By: [Signature]
Authorized Signor

Sandra Pyett
Print Name of Witness above

Earl Voorhees, C.O.O.
Print Name and Title

[Signature]
Signature

8th day of September, 2015

Jeanine Hodge
Print Name of Witness above

ATTEST:

[Signature]
Corporate Secretary or other person
authorized to attest

(CORPORATE SEAL OR NOTARY)

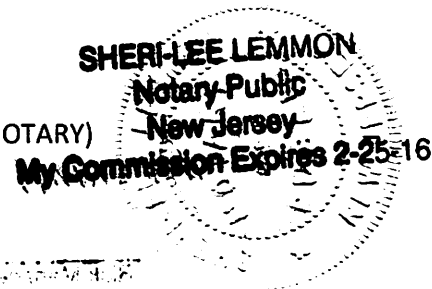


Exhibit A – Statement of Work

Provider and County agree that Provider shall provide the following work under this Agreement:

1. **Software.** Provider has already provided, and County has already paid for in full, the following Software under this Agreement:

Software Suite, Version & Module	Quantity & Type of License (e.g., Enterprise, User, Third-Party)
S/N 2900068: Fortis Oracle Server	1 Enterprise license
S/N 2900068: Fortis Edit Station	10 Enterprise licenses
S/N 2900068: Fortis Scan Station	20 Enterprise licenses
S/N 2900068: Fortis IMAGEIT	15 Enterprise licenses
S/N 2900068: Fortis IMAGEIT	6 Enterprise licenses
S/N 2900011: Fortis Oracle Server	1 Enterprise license
S/N 2900011: Fortis OCR Server	1 Enterprise license
S/N 2900011: Fortis Barcode	1 Enterprise license
S/N 2900011: Fortis IMAGE Enhance Add On	1 Enterprise license
S/N 2900011: Fortis Full Text	1 Enterprise license
S/N 2900011: Fortis Scan Station	12 Scan Station licenses
S/N 2900011: Fortis Edit Station	30 Edit Station licenses
S/N 20130210: Fortis Document Connector Image	1 Enterprise license
S/N 20130210: Fortis Document Connector Design	1 Enterprise license
S/N 20130210: Fortis Document Connector Production	1 Enterprise license
S/N 20130210: Fortis Document Connector Search	3 Enterprise licenses

2. **Security/Access**

Provider will cooperate with County and provide any and all information that County may request in order to determine appropriate security and network access restrictions and verify Provider compliance with County security standards.

3. Managerial Approach & Communication

Provider will ensure that the persons responsible for Provider's performance of the Services under this Agreement and, to the extent applicable, identified below (collectively "Key Personnel") are appropriately trained and experienced and have adequate time and resources to perform in accordance with the terms of this Agreement. To the extent Provider seeks or is required to make any change to the composition of the Key Personnel, Provider will provide County with thirty (30) days' advance notice (or as much advance notice as is possible if thirty (30) days' notice is not possible) regarding such changes and the management plan associated with such changes. County shall not be responsible for any additional costs associated with a change in Key Personnel.

4. Training

In the event of any upgrades to the Software, Provider shall provide County, at no additional cost, training, either in person or via webinar, to educate County personnel on any new or upgraded features and to enable County personnel to use the Software as upgraded. Any other training shall be optional at County's request and shall be paid for as provided in Exhibit B

5. Optional Services, Additional Software/Licenses:

a. Transition & Disentanglement Services

The parties acknowledge and agree that upon the expiration or termination of this Agreement, the good faith efforts of Provider to facilitate the smooth, efficient, and secure transition of data and services to another provider (or to County, to the extent applicable) without any unnecessary interruption or adverse impact on County operations ("Disentanglement") is a critical objective of the parties and a material obligation of Provider under this Agreement. All obligations of Provider under this Agreement shall be construed consistent with this objective.

At request of County, Provider shall provide prompt, good faith, and reasonable assistance to County in disentangling County data, business, and operations from the Software and, to the extent applicable, transitioning to a new software, system, or provider.

b. Additional Software/Services

County may purchase any additional Software and Services that Provider makes commercially available or provides to its other customers to the extent such Software and Services are optional modules, components, or are otherwise integral or otherwise materially related to the Software licensed or previously acquired from Provider pursuant to a validly executed Work Authorization (Exhibit E).

6. Final Acceptance Test Plan:

For any additional Software acquired pursuant to a validly executed Work Authorization (Exhibit E), the Final Acceptance Test Plan shall be as specified in the Work Authorization, inclusive of all exhibits.

Exhibit B – Payment Schedule

The rates specified below shall be in effect through December 31, 2017. For any renewal periods, the County and Provider shall negotiate the price of any goods and services acquired during such renewal period. Any goods or services required under this Agreement for which no specific fee or cost is expressly stated in this Payment Schedule shall be deemed to be included, at no extra cost, within the costs and fees expressly provided for in this Exhibit B.

Software License Fees

Software Description	License Term	Invoicing	Fees
License Fee	Perpetual	N/A	PAID IN FULL

For any additional Software acquired under this Agreement, Software License Fees shall commence only upon the date of the applicable Final Acceptance.

Support and Maintenance Services Fees

Specific Support and Maintenance Services	Invoicing	Fees
Support and Maintenance Service for S/N 2900068: 1 Fortis Oracle Server 10 Fortis Edit Stations 20 Fortis Scan Stations 15 Fortis IMAGEIT 6 Fortis IMAGEIT	Annually in advance	\$ 17,775.85/year
Support and Maintenance Service for S/N 2900011: 1 Fortis Oracle Server 1 Fortis OCR Server 1 Fortis Barcode 1 Fortis IMAGE Enhance Add on 1 Fortis Full Text 12 Fortis Scan Stations 30 Fortis Edit Stations	Annually in advance	\$ 13,193.22/year
Support and Maintenance Service for S/N 20130210: 1 Fortis Document Connector Image 1 Fortis Document Connector Design	Annually in advance	\$ 4,412.52/ year

Specific Support and Maintenance Services	Invoicing	Fees
1 Fortis Document Connector Production 3 Fortis Document Connector Search		

The first year of Support and Maintenance shall commence effective September 18, 2015.

For any period of time that is less than a full year, any fees due under this Agreement shall be prorated and invoiced in advance of the applicable time period.

Any travel expenses or fees incurred by Provider under this Agreement shall be the sole responsibility of Provider, unless otherwise expressly stated in this Agreement or applicable Work Authorization. Any additional licenses acquired after the Effective Date will be automatically supported as part of the Support and Maintenance Services under this Agreement after the expiration of the applicable warranty period (if any) at the rate of 20% of the license fee unless otherwise stated in the applicable Work Authorization, and the Support and Maintenance Services fees for the remainder of the first term shall be calculated pro rata so as to be coterminous with the existing support term.

Optional Services

Description	Unit/Term	Invoicing	Fee
Consulting (including installation of upgrades, updates, and releases, and Transition & Disentanglement Services)	Hourly	Monthly in arrears	\$ 200/hour
Additional Training	Hourly	Monthly in arrears	\$ 150/hour
Remote Installation	Flat fee	Upon installation	\$ 200/installation

Additional Optional Licenses

Product	Price	Invoicing
Fortis Scan Station	\$ 1,100 / license	Upon delivery
Fortis IMAGEIT Station	\$ 500/ license	Upon delivery
Fortis Edit Station	\$ 1,100/ license	Upon delivery

Upon request of the Contract Administrator, and to the extent not provided herein, Provider shall provide County an updated list of available licenses and their corresponding price so that County may purchase additional licenses not included herein pursuant to a properly executed Work Authorization.

Exhibit C - Support and Maintenance Services

Provider shall provide County with Support and Maintenance Services so as to ensure and maintain optimal performance of the Software consistent with the Statement of Work and the Documentation, which service shall include the following:

- Timely response and resolution of any errors, defects, malfunctions or other issues affecting the use or performance of the Software (collectively, "Events") in keeping with the Required Response Times stated below;
- Providing and facilitating updates, upgrades and releases as they are made available to Provider's other clients;
- Notification of patches and updates affecting security Applying, testing, and validating the appropriate patches and updates and/or workarounds on a test version of the application before distribution.
- On-call availability via telephone and e-mail during normal business hours to receive and respond to inquiries or questions from County regarding use, operation, or functionality of the Software;
- Emergency availability via telephone and e-mail after hours to receive and respond to specific technical problems and questions relating to the operation or functionality of the Software;
- Use of ongoing best efforts to maintain the optimal functioning of the Software, to correct programming and coding errors, and to provide solutions to known errors affecting the operation of the Software;
- Routine notification to County as it becomes available of new or updated information pertaining to the Software and the Documentation.

Support and Maintenance Services shall be provided via telephone, electronic communication, on-site, or as otherwise appropriate to address the issue. Any update, upgrades, releases, or other modifications to the Software shall be provided via electronic communication and for download via the Internet, if practicable. To the extent necessary to resolve an Event or other support request, Provider shall provide support on-site at any office or location of a Broward County agency. Provider agrees that its personnel shall be suitably trained in the operation, support and maintenance of the Software. If in the reasonable opinion of County, the personnel provided are not acceptable, Provider agrees to provide suitable replacements.

Required Response Times. Upon notice by County of an Event, Provider shall address and resolve the Event consistent with the following priority, response and resolution levels:

Priority Description	Definition	Response Time After Notice	Resolution Time after Notice
Critical	Event that renders the Software and/or interfaces inoperable or allows unauthorized access.	2 hour during normal business hours; or within 1 hour of beginning of next business day if outside of normal business hours; onsite support preferred	Work until corrected
Severe	Event that results in a significant impairment of performance of the Software or impairs essential operations or allows unauthorized access.	4 hour during normal business hours; or within 1 hour of beginning of next business day if outside of normal business hours; onsite support preferred	Work until corrected during normal business hours
Minor	Event that has minor impact to County's business and that does not impact normal operation of the Software.	8 hours during normal business hours; or next business day if outside of normal business hours; onsite support preferred	Future patch or release
Minimal	Event that has minimal impact or no impact on County's business.	16 hours during normal business hours; or next business day if outside of normal business hours; onsite support preferred	Future release

Notwithstanding the above-stated schedule, Provider shall use its continuing best efforts to correct the Event as expeditiously as it can. The Priority Description for each error or issue shall be reasonably determined by the Contract Administrator.

Records and Reports. Provider will maintain records of its Support and Maintenance Services, which shall include at least the following:

- a) Date, time, and name of contact for each Event;
- b) Date and time of response by Provider;
- c) Description of Event and analysis of error, defect, or other issue causing Event;
- d) All steps and actions taken to resolve the Event;
- e) Date and time of resolution and County representative notified of resolution; and
- f) All equipment and/or labor costs associated with resolution.

At the request of County, Provider shall provide monthly reports of the foregoing records as well as statistics of Provider's average monthly compliance with the Required Response Times.

Failure to Meet Required Response Times. If Provider fails to meet the Required Response Times, County may offset against any sums due Provider \$175 for each hour that Provider's average response time in the preceding month exceeds the Required Response Times, which the parties

agree is a fair and reasonable approximation of County's negative financial impact caused by the delay in Provider's response.

DownTime Maintenance Credit. If a Severe or Critical Event is not resolved or reduced to Minor or Minimal priority level within two (2) business hours after notice to Provider, Provider will refund to County five percent (5%) of the monthly fee (or monthly pro rata equivalent, if the fee is other than monthly) for Support and Maintenance Services for each additional business hour that the Event remains unresolved or at the Severe or Critical priority level. Such refunds will be paid within 10 days or, at County's option, may be credited against future sums due to Provider. This refund shall be in addition to any other remedy that is available in the event of a breach of the Agreement.

Exhibit D – Insurance Requirements

Insurance Requirements

The following coverage is deemed the minimum insurance required for this project. The selected firm must be prepared to provide proof of insurance commensurate with or in excess of this requirement. Any deviation is subject to the approval of Risk Management.

TYPE OF INSURANCE	MINIMUM LIABILITY LIMITS		
		Each Occurrence	Aggregate
COMMERCIAL GENERAL LIABILITY Broad form or equivalent <i>With no exclusions or limitations for:</i> <input checked="" type="checkbox"/> Premises–Operations <input type="checkbox"/> Explosion, Collapse, Underground Hazards <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/>	Bodily Injury		
	Property Damage		
	Combined single limit Bodily Injury & Property Damage	\$ 1 mil	\$ 2 mil
	Personal Injury		
BUSINESS AUTO LIABILITY* COMPREHENSIVE FORM <input checked="" type="checkbox"/> Owned ***MAY BE WAIVED <input checked="" type="checkbox"/> Hired IF NO DRIVING IS <input checked="" type="checkbox"/> Non-owned TO BE DONE IN <input checked="" type="checkbox"/> Scheduled PERFORMANCE OF <input checked="" type="checkbox"/> Any Auto SERVICES***	Bodily Injury (each person)		
	Bodily Injury (each accident)		
	Property Damage		
	Combined single limit Bodily Injury & Property Damage	\$ 500 k	
EXCESS/UMBRELLA LIABILITY <i>May be used to supplement minimum liability coverage requirements.</i>	Follow form basis or Add'l insd endorsement is required		
<input checked="" type="checkbox"/> WORKERS' COMPENSATION <i>If exempt: State Exemption Certificate or letter on company letterhead is required.</i> <input checked="" type="checkbox"/> EMPLOYERS' LIABILITY	Chapter 440 FS	STATUTORY	U.S. Longshoremen & Harbor Workers' Act & Jones Act is required for any activities on or about navigable water
	(each accident)	\$ 500 k	
<input checked="" type="checkbox"/> PROFESSIONAL LIABILITY (E & O)	(each accident)	\$ 1 mil	\$ 2 mil
	Extended coverage period	2 years	
<input type="checkbox"/> POLLUTION LIABILITY /ENVIRONMENTAL IMPAIRMENT LIABILITY WITH CLEAN-UP COSTS	(each accident)		
	Extended coverage period		
<input type="checkbox"/> BUILDER'S RISK (PROPERTY) "ALL RISK" WITH WIND AND FLOOD Coverage must remain in force until written final acceptance by County	Maximum Deductible \$10 k		Completed Value form
	DED for WIND or WIND & FLOOD not to exceed 5% of completed value		
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES Broward County is listed as an additional insured on the general liability policy and the automobile liability policy.			
REFERENCE:			
CERTIFICATE HOLDER: Broward County 115 South Andrews Avenue Fort Lauderdale, FL 33301			

Revised 2013

Exhibit E – Work Authorization Form

Contract: _____

Work Authorization No. _____
Award Authority for Optional Services

This Work Authorization is between Broward County and _____ as required pursuant to the Agreement, executed on _____. In the event of any inconsistency between this Work Authorization and the Agreement, the provisions of the Agreement shall govern and control.

Services to be provided: [DESCRIBE IN DETAIL]

Contract at issue is __ Lump Sum/ __ Not-to-Exceed for amount: \$ _____

The time period for this Work Authorization will consist of ____ (____) calendar days unless otherwise set forth in an attached quotation.

Fee Determination: Payment for services under this Work Authorization is as follows:

Professional Services	\$ _____
General Services	\$ _____
Equipment/Hardware	\$ _____
Travel/Reimbursables (not to exceed)	\$ _____
Total Maximum Cost of this Work Authorization	\$ _____

County

_____	_____	_____	_____
Project Manager	Date	Contract Administrator	Date
_____		_____	_____
		Board and/or Designee	Date

VENDOR

Attest:	Signed: _____
_____	Typed Name: _____
_____	Title: _____