

December 9, 2025

Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue
Bakersfield, CA 93301

**PROPOSED AGREEMENT CONTAINING NON-STANDARD TERMS AND
CONDITIONS WITH AEROSIMPLE LLC TO PROVIDE COMMERCIAL AND
OPERATIONAL MANAGEMENT SOFTWARE FOR MEADOWS FIELD AIRPORT,
FROM DECEMBER 9, 2025, THROUGH JUNE 30, 2030
(Fiscal Impact: \$146,667 [FY25-26 \$18,667]; Airports Enterprise Fund; Budgeted;
Discretionary)**

The Department of Airports requests your Board's approval of the proposed Agreement containing non-standard terms and conditions with Aerosimple LLC to provide commercial and operational management software for Meadows Field Airport, from December 9, 2025, through June 30, 2030, in an amount not to exceed \$146,667.

The Department of Airports has previously contracted with Coffman Associates' AIRS web application suite to provide digital inspections, operational work orders, and wildlife hazard management. With Coffman Associates' AIRS web suite sunsetting at the end of this calendar year, the Department sought a new consultant to provide vital operational software. The Department's goal was to add a robust platform capable of handling both commercial and operational management processes to airside, landside, and terminal operations in addition to replacing Coffman Associates' AIRS previous capabilities. Aerosimple's airport management platform will assist the Department in improving operational oversight while maintaining the airport's compliance to meet all Federal Aviation Administration requirements.

This proposed Agreement has been reviewed and not approved as to form by County Counsel. Specifically, due to limitation of liability and waiver of warranties. However, County Counsel has deemed the Agreement low risk and recommends it for approval.

Therefore, IT IS RECOMMENDED that your Board approve the Agreement containing non-standard terms and conditions with Aerosimple LLC to provide commercial and operational management software for Meadows Field Airport, from December 9, 2025, through June 30, 2030, in an amount not to exceed \$146,667 and authorize Chairman to sign the proposed Agreement.

Respectfully,



Bill LaManque, CM
Director of Airports

cc: County Administrative Office
County Counsel

YOUR GATEWAY TO BOUNDLESS TRAVEL

KERN COUNTY
PERSONAL/PROFESSIONAL SERVICES AGREEMENT
SCHEDULE TO MASTER TERMS AND CONDITIONS
PPSA-STANDARD

I. This **SCHEDULE** ("**Schedule**") shall be effective on _____ ("**Effective Date**") and shall terminate no later than June 30, 2030 ("**Termination Date**").

Kern County Department: Airports ("**Responsible County Department**")

Located at: 3701 Wings Way, Suite 300, Bakersfield, CA 93308

Service Provider: Aerosimple, LLC ("**Consultant**")

Located at: 30 N Gould St, STE 4717 Sheridan, WY 82801

Consultant Email for signature: vishu.rao@aerosimple.com

Consultant is (select one):
 Sole Proprietorship
 Incorporated in the State of Wyoming
 Other (specify) [Click or tap here to enter text.](#)

II. Consultant shall provide the services and products described in **Exhibit A** ("**Services**"). This excludes travel and other expenses described in Section III. County shall compensate Consultant for those services and products in an amount not to exceed: \$ 146,667.00.

III. Travel and all other expenses. Select one of the following:
 County **shall not** reimburse Consultant for any travel or other expenses incurred by Consultant.
 County **shall** reimburse Consultant for all travel and/or other necessary and reasonable actual expenses incurred on behalf of County. If the reimbursable expenses include travel, the travel expenses must be reasonable and necessary, approved in advance in writing by the Responsible County Department, and shall not exceed the federal mileage rate and federal diem rate for the location of the services. County shall reimburse Consultant in an amount not to exceed: \$ ____.

IV. Total Amount Payable Under Agreement (Compensation for Services/Products, Plus Travel and Other Expenses)
County shall compensate Consultant for the Services and Products (amount stated in Section II) and reimburse Consultant for expenses, including travel, if applicable (amount stated in Section III). The total amount payable under this agreement shall not exceed: \$ 146,667.00. (Section II + Section III).

V. Consultant shall be required to have the following insurance coverages which are marked, on the terms provided in the Master Terms and Conditions. The insurance coverages shall be in the amounts specified, unless another amount is shown (select all that apply):
 Workers' Compensation: As required by California Labor Code Section 3700
 Commercial General Liability (\$1,000,000/Occurrence; \$2,000,000/Aggregate) or other amounts: \$ ____.
 Automobile Liability (\$1,000,000/Occurrence) or other amount: \$ ____.
 Professional Liability (\$1,000,000/Claim; \$2,000,000/Aggregate) or other amounts: \$ ____.

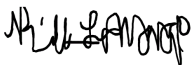
Note: If a lesser amount is shown, the Responsible County Department must obtain the prior written approval of the County Risk Manager.

If there are any conflicts between the terms and conditions contained in this Schedule and the Master Terms and Conditions, this Schedule shall control.

The Parties have executed this Schedule, including the Master Terms and Conditions, which constitute the Agreement, on the Effective Date.

COUNTY OF KERN

By _____
Chairman, Board of Supervisors

Responsible County Department
By  _____ 11/27/2025
Bill LaManque, CM, Director of Airports

Office of the County Counsel

By Vishu Rao _____ 11/26/2025
Vishu Rao, CEO
"Consultant"

By _____
Brian Van Wyk, Deputy

**EXHIBIT A
SERVICES**

Consultant shall provide the Services shown below for the Responsible County Department based on the following payment schedule: (select one of the following options)

- Consultant shall submit one invoice to County upon contract completion and acceptance of the Services by County.
- Consultant shall invoice monthly for hours expended over the prior 30 days; County to retain 20% of all invoiced amounts until final acceptance of the Services by County.
- Consultant shall invoice County upon the successful completion of milestones:
(insert percentages next to applicable milestones)
 - % Upon completed installation of _____.
 - % Upon completed installation of _____.
 - % Upon completion of training _____.
 - % Other Milestone (describe) _____.
 - % Other Milestone (describe) _____.
 - % Upon contract completion and acceptance of the Services by County.

Consultant shall invoice County as follows: (describe in detail any payment schedule, milestone payments, percentages and retention as applicable)

Consultant shall invoice monthly at:

- \$2,666.67 for remainder of FY 25-26 (\$18,666.69)
- \$2,666.67 for FY 26-27 (\$32,000)
- \$2,666.67 for FY 27-28 (\$32,000)
- \$2,666.67 for FY 28-29 (\$32,000)
- \$2,666.67 for FY 29-30 (\$32,000)

1. Full description of the Services:

Design and manage unlimited inspections and forms across airside, landside and terminal operations. Facilitate seamless information sharing, including critical updates such as NOTAMs and Airfield Condition Reports. Streamline complex workflows with drag-and-drop business process designers and automated decision trees. Oversee compliance and training through an integrated Learning Management System. Streamline revenue operations, concessions, leases, and vendor management. Centralize document management for contracts, agreements, and approvals. Generate real-time analytics and dashboards to monitor commercial performance. Leverage robust reporting capabilities to analyze trends, monitor operational performance, and make data-driven decisions. Access proven templates and insights from a global network of airports for continuous improvement.

2. Dates and location where the Services will take place (include time schedule and/or milestone dates if appropriate):

All work will be completed at the Consultant's office, and in the field as necessary.

3. If training is involved, the hours per day that are included in the training and minimum/maximum number of staff/trainees allowed to attend the training:

Unlimited users, Unlimited usage/data storage, Unlimited user training and onboarding sessions conducted remotely via Zoom.

4. Materials, equipment, facilities, manuals, study guides, etc., will be provided as indicated to assist Consultant in provision of the Services:

By Responsible County Department:

Inform consultant of any issues regarding application downtime or request enhancements.

N/A

By Consultant:

24x7 Customer Support; As needed to provide the Services.

5. Exceptions/Additional Clauses to Master Terms and Conditions:

1. Mutual Confidentiality

Both parties shall maintain the confidentiality of the other Party's proprietary and confidential information and shall not disclose such information to any third party without the prior written consent of the other Party, except as required by law. Each Party shall use the same degree of care to protect the other Party's confidential information as it uses to protect its own confidential information of a similar nature, but in no event less than reasonable care. Both parties are familiar with the California Public Records Act and understand that County is a public agency subject to the requirements of that act. This obligation shall survive the termination or expiration of this Agreement.

2. Limitation of Liability

Notwithstanding any other provision of this Agreement, each party's total aggregate liability for any and all claims, losses, damages, or expenses arising out of or related to this Agreement, whether in contract, tort, or otherwise, shall not exceed the total fees paid to Aerosimple under this Agreement during the twelve (12) months preceding the event giving rise to such claim. In no event shall a party be liable for any indirect, consequential, incidental, special, punitive, or exemplary damages, including but not limited to loss of revenue, profits, goodwill, or business opportunity.

3. Retention of Aerosimple IP and License Rights

Aerosimple retains ownership of all pre-existing intellectual property, including software, tools, templates, methodologies, processes, and proprietary materials ("Aerosimple IP"). Aerosimple grants County a perpetual, royalty-free, non-exclusive, non-transferable license to use the deliverables created under this Agreement solely for County's internal purposes. County shall not reverse engineer, copy, modify, distribute, or otherwise use Aerosimple IP for any purpose other than as expressly authorized under this Agreement. Data generated in County systems belongs to County, and Aerosimple may not claim ownership over such data.

4. Mutual Indemnification

Each Party (the "Indemnifying Party") shall defend, indemnify, and hold harmless the other Party and its officers, employees, agents, and representatives (the "Indemnified Party") from and against any and all claims, losses, liabilities, damages, fines, penalties, costs, and expenses, including reasonable attorneys' fees, arising out of or relating to: (i) the negligence or willful misconduct of the Indemnifying Party, its employees, agents, or subcontractors; (ii) infringement or misappropriation of any intellectual property right caused by the Indemnifying Party's performance under this Agreement; (iii) violation of any laws applicable to the performance of this Agreement; and (iv) breach of this Agreement. The Indemnified Party shall promptly notify the Indemnifying Party of any claim and reasonably cooperate in the defense, at the Indemnifying Party's expense.

5. Force Majeure

Neither Party shall be liable for any failure or delay in performance under this Agreement to the extent caused by events beyond its reasonable control, including but not limited to acts of God, natural disasters, pandemics, epidemics, labor disputes, governmental actions, or other unforeseeable circumstances ("Force Majeure Event"). The affected Party shall promptly notify the other Party of the occurrence of such event and use commercially reasonable efforts to mitigate the impact of the event and resume performance as soon as possible. Performance deadlines shall be extended for the duration of the Force Majeure Event.

6. Termination for Convenience with Compensation

County may terminate this Agreement for any reason upon written notice to Aerosimple. In the event of termination for convenience, County shall pay Aerosimple for all services satisfactorily performed and documented costs incurred up to the effective date of termination, subject to the maximum contract value. Aerosimple shall promptly deliver all work product and County data in progress as of the termination date.

7. Payments Terms

All undisputed invoices submitted by Aerosimple shall be payable within thirty (30) days of receipt. All fees are non-cancellable. County shall be responsible for all applicable taxes.

8. IP Use Rights Clarification

Aerosimple retains ownership of all licensed software, templates, tools, methodologies, and other proprietary materials used or developed prior to or outside the scope of this Agreement. County may use deliverables and work product generated under this Agreement solely for its internal purpose and in accordance with the license granted under Section 3. No other rights, title, or ownership of Aerosimple's proprietary materials are granted to County.

9. Representations and Warranties

Aerosimple represents and warrants that:

1. **Authority and Capacity:** it has full power, and authority to enter into and perform this Agreement, and the execution, delivery, and performance of this Agreement does not violate any other Agreement, law, or obligation.
2. **Expertise and Qualifications:** Aerosimple has the expertise, experience, personnel, and facilities necessary to perform the Services in a professional and workmanlike manner consistent with industry standards.
3. **Compliance with Law:** Aerosimple and its personnel shall comply with all applicable local, state, and federal laws, regulations, and rules in the performance of this Agreement.
4. **No Conflicts:** To the best of its knowledge, Aerosimple has no actual or potential conflicts of interest that would impair its ability to perform the Services under this Agreement impartially and objectively.
5. **Authority to Grant Rights:** Aerosimple owns or has sufficient rights to all intellectual property and deliverables provided under this Agreement and has the right to grant the licenses described herein without violating the rights of any third party.

KERN COUNTY
PERSONAL/PROFESSIONAL SERVICES AGREEMENT
MASTER TERMS AND CONDITIONS
PPSA-STANDARD

THIS AGREEMENT ("**Agreement**") is entered into effective on the Effective Date shown on the attached Schedule, by and between the **COUNTY OF KERN**, a political subdivision of the State of California, as represented by the Purchasing Agent ("**County**"), with its principal location at 1115 Truxtun Avenue, 3rd Floor, Bakersfield, CA 93301, and **CONSULTANT** identified on the Schedule ("**Consultant**"). County and Consultant are individually referred to as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. Government Code Sections 31000 and 53060 permit the County Board of Supervisors to contract for the furnishing of special services with individuals specially trained and experienced and competent to perform those services.

B. The County Department identified on the Schedule as the Responsible County Department requires those services which are specified in **Exhibit A**.

C. County desires to engage Consultant to provide the services and Consultant, by reason of its qualifications, experience, and facilities for doing this type of work, has offered to provide the required services on the terms set forth in this Agreement.

D. The Purchasing Agent has been authorized by the Board of Supervisors to contract for personal/professional services in an amount not to exceed \$200,000 per contract.

AGREEMENT

- 1. Services to be Rendered.** Consultant shall provide the services and products described in **Exhibit A** ("**Services**").
- 2. Compensation to Consultant.** County shall compensate Consultant in accordance with the compensation selection(s) shown on the Schedule. No additional compensation shall be paid for secretarial, clerical support staff, overhead or any other costs incurred by Consultant by providing the Services to County.
- 3. Reimbursement Policy and Billing Requirements.** All invoices for payment shall be submitted in a form approved by County based upon the payment schedule selected on **Exhibit A**, shall contain an itemization of all costs and fees broken down monthly (including an itemization of all travel expenses incurred if applicable) and shall be stated as a cumulative total. Invoices shall be sent for review and processing to the Responsible County Department. Consultant shall also provide an informational copy to the Purchasing Agent. Payment shall be made to Consultant within 30 days of receipt and approval of the invoice by the Responsible County Department.
- 4. Term.** This term of this Agreement ("**Term**") shall start on the Effective Date and shall terminate on the Termination Date, unless sooner terminated as provided in this Agreement.
- 5. Assignment.** Consultant shall not assign, transfer, or encumber this Agreement, or any part, and Consultant shall not assign any monies due or which become due to Consultant under this Agreement, without the prior written consent of the Purchasing Agent.
- 6. Audit, Inspection and Retention of Records.** Consultant shall maintain and make available to County accurate books and records relative to the Services under this Agreement. Consultant shall permit County to audit, examine, and make excerpts and transcripts from its records and to conduct audits of all invoices, materials, records of personnel, or other data related to the Services under this Agreement. Consultant shall maintain its data and records in an accessible location and condition for a period of not less than three years from the date of final payment under this Agreement, or until after the conclusion of any audit, whichever occurs last. The State of California and/or any federal agency having an interest in the subject of this Agreement shall have the same rights as County.
- 7. Authority to Bind County.** It is understood that Consultant, in Consultant's performance of any Services under this Agreement, except as otherwise provided in this Agreement, has no authority to bind County to any agreements or undertakings.
- 8. Indemnification.**
 - a. General.** Consultant shall defend, indemnify, and hold harmless County and County's board members, elected and appointed officials, officers, employees, agents, volunteers and authorized representatives ("**County Indemnified Parties**") from any losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments and costs, including attorneys' fees of County Counsel and outside counsel retained by County, expert fees, costs of staff time, and investigation costs ("**Claims**") which arise out of or relate to any act or omission of Consultant or Consultant's officers, employees, agents and subcontractors of any tier hired by Consultant to perform the Services ("**Consultant Representatives**"). This indemnification obligation shall include bodily and personal injury or death

to any person; damage to any property, regardless of where located, including the property of County; and any workers' compensation Claim arising from or relating to the Services. Consultant shall defend any Claim with counsel of Consultant's choice, subject to County's written approval, and at Consultant's sole cost.

b. Immigration Reform and Control Act. Consultant acknowledges that Consultant and Consultant Representatives are aware of and understand the Immigration Reform and Control Act ("IRCA"). Consultant is and shall remain in compliance with the IRCA and shall ensure that any Consultant Representatives are and shall remain in compliance with the IRCA. In addition, Consultant shall defend, indemnify and hold harmless County and County Indemnified Parties from any Claims which arise out of or relate to any allegations that Consultant or Consultant Representatives are not authorized to work in the United States and/or any other allegations based upon alleged IRCA violations committed by Consultant or Consultant Representatives. Consultant shall defend any Claim with counsel of Consultant's choice, subject to County's written approval, and a Consultant's sole cost.

c. Infringement Claim. If any Claim is asserted or action or proceeding brought against County or County Indemnified Parties which alleges that all or any part of the Services in the form supplied by Consultant or County's use, infringes or misappropriates any United States or foreign patent or copyright, or any trade secret or other proprietary right, County shall give Consultant prompt written notice. Consultant shall defend and indemnify County and County Indemnified Parties from any Claims, including costs incurred by County in order to avoid entry of any default judgment or other waiver of County's rights. Consultant shall defend any claim with counsel of Consultant's choice, subject to County's written approval, and at Consultant's sole cost. County shall cooperate fully with and may monitor Consultant in the defense of any Claim and shall make employees available as Consultant may reasonably request with regard to the defense, subject to reimbursement by Consultant of all costs incurred by County's cooperation in the defense.

d. Remedy of Infringement Claim. If the Services are, in Consultant's opinion, likely to become or do become the subject of a claim of infringement or misappropriation of a United States or foreign patent, copyright, trade secret or other proprietary right, or if a temporary restraining order or other injunctive relief is entered against the use of part or all of the Services, Consultant shall within 90 days:

1. **Replace.** Promptly replace the Services with compatible, functionally equivalent, and non-infringing Services;
2. **Modify.** Promptly modify the Services to make them non-infringing without materially impairing County's ability to use the Services as intended;
3. **Procure Rights.** Promptly procure the right of County to continue using the Services; or
4. **Refund.** As a last resort, if none of these alternatives is reasonably available to Consultant, and County is enjoined or otherwise precluded legally from using the Services, Consultant shall, within 120 days of the judgment or other court action, promptly refund to County all fees and costs paid for the Services, and this Agreement shall terminate. All licensed products shall be disposed of as ordered by the governing court at the sole cost of Consultant or as determined by County if the court does not so direct.

e. Modification of Services. This indemnification does not extend to modifications or additions to the Services made by County or any third party without the prior written consent of Consultant, or to any unauthorized use of the Services by County.

f. Survival of Indemnification Obligations. Upon completion of this Agreement, the provisions of this **Section 8** shall survive.

9. Insurance. Consultant, in order to protect County and County Indemnified Parties against Claims as a result of the performance of Consultant's obligations, as required in this Agreement, shall secure and maintain the following insurance. Consultant shall not perform any Services until Consultant has obtained all insurance required under this **Section 9** and the required certificates of insurance and all required endorsements have been filed with County's authorized insurance representative ("**Authorized Insurance Representative**"). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of these insurance requirements. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Consultant shall supply proof that the designated person is an authorized representative, and is authorized to bind the named underwriter(s) and their company to the stated coverage, limits and termination provisions. Consultant shall promptly deliver to Authorized Insurance Representative a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the Term. The certificates and endorsements shall be delivered to Authorized Insurance Representative prior to the expiration date of any policy and bear a notation evidencing payment of the premium if so requested. Consultant shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any Claim by Consultant or County as an additional insured.

a. Workers' Compensation and Employer's Liability Insurance Requirement. If Consultant has employees who may perform any Services under this Agreement, Consultant shall submit written proof that Consultant is insured against liability for workers' compensation in accordance with the provisions of California Labor Code Section 3700. Consultant shall require any Consultant Representatives to provide workers' compensation for any of the Consultant Representative's employees, unless the employees are

covered by the insurance carried by Consultant. If any class of employees engaged in Services is not covered by California Labor Code Section 3700, Consultant shall provide and/or require each Consultant Representative to provide adequate insurance for the coverage of employees not otherwise covered. Consultant shall also maintain employer's liability insurance with limits of \$1,000,000 for bodily injury or disease.

b. Liability Insurance Requirements.

1. Types of Liability Insurance. Consultant shall maintain in full force and effect, during the Term, the following types of liability insurance:

A. Commercial General Liability Insurance. including Contractual Liability Insurance (specifically covering the indemnification provisions of this Agreement), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Consultant's performance of the Services. The Commercial General Liability insurance shall contain no exclusions or limitations for Consultant Representatives working on the behalf of the named insured. Consultant shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by Applicable Law following termination of this Agreement. The amount of the insurance coverage required by this Agreement shall be the policy limits, which shall be no less than the amount specified on the Schedule.

B. Automobile Liability Insurance. against claims of Personal Injury (including bodily injury and death) and Property Damage covering any owned, leased, hired and non-owned vehicles used in the performance of the Services with insurance coverage equal to the policy limits, which shall be no less than the amount specified on the Schedule.

C. Professional Liability (Errors and Omissions) Insurance. for liability arising out of or related to the performance of the Services, with insurance coverage equal to the policy limits, which shall be no less than the amount specified on the Schedule.

2. Endorsements. The Commercial General Liability and Automobile Liability Insurance required in this **Section 9** shall include an endorsement naming County and County Indemnified Parties as additional insureds for liability arising out of this Agreement and any related operations. The endorsement shall be provided using one of the following three options: **(i)** on ISO form CG 20 10 11 85; or **(ii)** on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or **(iii)** on other forms which provide coverage at least equal to or better than form CG 20 10 11 85.

3. Claims-Made Insurance. If any of the insurance coverages required under this Agreement is written on a claims-made basis, Consultant, at Consultant's option, shall either **(i)** maintain the coverage for at least three years following the termination of this Agreement with coverage extending back to the Effective Date; **(ii)** purchase an extended reporting period of not less than three years following the termination of this Agreement; or **(iii)** acquire a full prior acts provision on any renewal or replacement policy.

c. Insurance Companies. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII. Any exception to these requirements must be approved in writing by the County Risk Manager.

d. Self-Insurance. If Consultant is, or becomes during the Term, self-insured or a member of a self-insurance pool, Consultant shall provide coverage equivalent to the required insurance coverages and endorsements. County will not accept the coverages unless the County Risk Manager determines, in its sole discretion and by written acceptance, that the coverages proposed to be provided by Consultant are equivalent to the required coverages. Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to County and must be approved in writing by the County Risk Manager.

e. Primary Insurance; Waiver of Subrogation. All insurance carried by Consultant shall be primary to and not contributing to any insurance or self-insurance maintained by County. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against County.

f. Insurance Does Not Replace Indemnification. Maintenance of the insurance coverages in the minimum specified amounts shall not be construed to relieve Consultant for any liability, whether within, outside, or in excess of the coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude County from taking other actions as are available to it under this Agreement or under Applicable Law.

g. Failure to Maintain Insurance. Failure by Consultant to maintain all insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Consultant. County, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from the breach. Alternatively, County may purchase the required insurance coverage, and without further notice to Consultant, County shall deduct from sums due to Consultant any premiums and associated costs advanced or paid by County for the insurance. If the balance of monies owed to Consultant under this Agreement is insufficient to reimburse County for the premiums and any associated costs, Consultant shall reimburse County for the premiums and pay for all costs associated with the purchase of the insurance. Any failure by County to take this alternative action shall not relieve Consultant of its obligation to obtain and maintain the insurance coverages required by this Agreement.

h. Cancellation of Insurance. The insurance coverages required to be maintained by Consultant shall be maintained until the completion of all of the Services except as otherwise stated in this Agreement. Each insurance policy supplied by Consultant shall not be terminated, suspended, voided, canceled, non-renewed or reduced in coverage or in limits except after 10 days prior written notice to Consultant in the case of non-payment of premiums, or 30 days prior written notice in all other cases. This notice requirement does not waive these insurance requirements. Consultant shall immediately obtain replacement coverage for any insurance policy that is terminated, suspended, voided, canceled, reduced in coverage, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

10. Consultant Representations. Consultant makes the following representations, which the Parties agree are material to and form a part of the inducement for this Agreement:

a. Expertise and Staff. Consultant has the expertise, support staff, and facilities necessary to provide the Services; and

b. No Adverse Interests. Consultant does not have any actual or potential interests adverse to County, nor does Consultant represent a person or firm with an interest adverse to County relating to the subject of this Agreement; and

c. Timeliness. Consultant shall diligently provide the Services in a timely and professional manner in accordance with the terms and conditions in this Agreement.

11. Ownership of Documents. All reports, documents, and other items generated or gathered in the course of providing the Services are and shall remain the property of County, and shall be returned to County upon full completion of the Services or termination of this Agreement, whichever first occurs.

12. Rights to Contracted Products.

a. Belong to County. For no additional fee or charge, products developed, prepared, generated or gathered by Consultant or Consultant's Representatives under this Agreement, shall be considered creative works for hire and shall be delivered to and become the exclusive property of County and may be used by County in any way it may deem appropriate. Consultant shall have no rights in the products, except the right to use the products for the exclusive purpose of providing the Services, and Consultant shall not copy or disclose to any third party any product, except as is expressly set forth in this Agreement or by separate written agreement between the Parties. These provisions do not apply to Consultant's original licensed software or administrative communications and records, which shall remain the exclusive property of Consultant.

b. Use by County. The ideas, concepts, know-how, and techniques developed during the course of this Agreement may be used by County in any way it may deem appropriate, so long as that use does not violate any term in this Agreement or any Applicable Law.

c. No Publication. Consultant or Consultant's Representatives shall not publish or disseminate information gained through participation in this Agreement without the specific prior review and written consent by County.

d. Delivery to County. Upon termination or expiration of this Agreement, Consultant shall immediately deliver to County all County-owned programs and documentation developed under this Agreement. In addition, Consultant grants to County a perpetual, royalty-free, non-exclusive, irrevocable, and non-transferable license to use, solely for County purposes, any Consultant-owned program, including system software, utilized by Consultant in performance of the Services.

e. Survival of Covenants. Upon completion of this Agreement, the provisions of this **Section 12** shall survive.

13. Termination. The Purchasing Agent may at his or her election, without cause, terminate this Agreement by written notice ("**Notice of Termination**"). The Notice of Termination shall be deemed effective 15 days after personal delivery, or 20 days after mailing by U.S. Mail, postage prepaid, registered or certified mail, addressed as provided in Section 23. In addition, either Party may immediately terminate this Agreement if the other Party fails to substantially perform in accordance with the terms and conditions of this Agreement through no fault of the Party initiating the termination. In the event this Agreement is terminated by either Consultant or the Purchasing Agent, Consultant shall submit to the Responsible County Department all files, memoranda, documents, correspondence and other items generated in the course of performing the Services, within 15 days after the effective date of the Notice of Termination. If either Party terminates this Agreement as provided in this **Section 13**, County shall pay Consultant for all satisfactory Services rendered by Consultant prior to the effective date of Notice of Termination in an amount not to exceed the maximum dollar amount shown on the Schedule.

14. Choice of Law/Venue. The Parties agree that the provisions of this Agreement shall be construed under the laws of the State of California. This Agreement has been entered into and is to be performed in the County of Kern. Accordingly, the Parties agree that the venue of any action relating to this Agreement shall be in the County of Kern.

15. Compliance with Applicable Law. Consultant shall observe and comply with all applicable local, state, and federal laws, ordinances, rules, and regulations now in effect or later enacted ("**Applicable Law**"), each of which is made a part of this Agreement.

16. Confidentiality. Consultant shall not, without the prior written consent of the Purchasing Agent, communicate confidential information, designated in writing or identified in this Agreement as confidential, to any third party and shall protect confidential information from inadvertent disclosure to any third party in the same manner that it protects its own confidential information, unless disclosure is required in response to a validly issued subpoena or other process of law. Upon completion of this Agreement, the provisions of this **Section 16** shall continue to survive.

17. Conflict of Interests.

a. Financial Conflicts of Interest. Consultant has read and is aware of the provisions of Government Code Section 1090 et seq. and Section 87100 et seq. relating to conflict of interest of public officers and employees. Consultant acknowledges that it is unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. It is further understood and agreed that if a financial interest does exist at the inception of this Agreement, County may immediately terminate this Agreement by giving written notice. Consultant shall comply with the requirements of Government Code Section 1090 et seq. and 87100 et seq. during the Term.

b. Organizational Conflicts of Interest. Consultant represents, to the best of its knowledge, that neither Consultant nor any Consultant Representative presently has any consulting or contractual arrangement with any firm or organization that would give rise to an organizational conflict of interest with respect to the Services. Neither Consultant nor any Consultant Representative shall enter into any contractual arrangement that would give rise to any potential organizational conflict of interest, without first obtaining County's prior written approval before entering into the contractual arrangement. If any organizational conflict of interest is discovered by Consultant relating to this Agreement, Consultant shall immediately notify County, and attempt to present a suitable mitigation plan. County may, at its sole discretion, terminate this Agreement in the event that Consultant has any actual or potential organizational conflict of interest. As used in this **Section 17.b**, "organizational conflict of interest" means any a relationship whereby Consultant has present or planned interests related to the Services which **(i)** may diminish its capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product, or **(ii)** may result in Consultant or any Consultant Representative being given an unfair advantage.

18. Enforcement of Remedies. No right or remedy conferred on or reserved to a Party is exclusive of any other right or remedy under law, equity or statute, but each shall be cumulative of every other right or remedy now or in the future existing under law, equity or statute, and may be enforced concurrently or from time to time.

19. Negation of Partnership. In the performance of the Services, Consultant shall be, and acknowledges that Consultant is, in fact and law, an independent contractor and not an agent or employee of County. Consultant has and retains the right to exercise full supervision and control of the manner and methods of providing the Services. Consultant retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting Consultant in the provision of the Services. With respect to Consultant's employees, if any, Consultant shall be solely responsible for payment of wages, benefits, and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, whether federal, state or local, and compliance with any Applicable Law regulating employment.

20. Non-collusion Covenant. Consultant represents and agrees that **(i)** it has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this Agreement with County and **(ii)** it has received from County no incentive or special payments and no considerations not related to the provision of the Services.

21. Non-discrimination. Neither Consultant, nor any Consultant Representative, shall discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, or any other classification protected by Applicable Law, either directly, indirectly or through contractual or other arrangements.

22. Non-waiver. No term, covenant or condition of this Agreement can be waived except by the prior written consent of County. Forbearance or indulgence by County shall not constitute a waiver of the covenant or condition to be performed by Consultant. County shall be entitled to invoke any remedy available to County under this Agreement or by Applicable Law despite the forbearance or indulgence.

23. Notices. All notices under this Agreement shall be provided to the Kern County Purchasing Agent at the address indicated in the opening section of this Agreement and to the Consultant and Responsible County Department at the addresses shown on the Schedule. Delivery shall be by personal delivery or deposit in the U.S. Mail, postage prepaid, registered or certified mail, addressed as specified above. Notices delivered personally shall be deemed received upon receipt; mailed or expressed notices shall be deemed received five days after deposit. A Party may change the address to which notice is to be given by giving notice as provided above. Nothing in this Agreement shall be construed to prevent or render ineffective delivery of notices under this Agreement by leaving the notice with the receptionist or other person of like capacity employed in Consultant's office, or the receptionist for the Kern County General Services Department.

24. Captions and Interpretation. Section headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a Party because that Party or its legal representative drafted the provision. This Agreement is the product of negotiation and both Parties are equally responsible for its authorship. California Civil Code Section 1654 shall not apply to the interpretation of this Agreement.

25. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

26. **Modifications of Agreement.** This Agreement may be modified in writing only, signed by the Parties in interest at the time of the modification.

27. **Severability.** If any term, covenant or condition in, or provision of, this Agreement is determined by a court to be in conflict with any Applicable Law, or otherwise be unenforceable or ineffectual, the validity of the remaining terms or provisions shall be deemed severable and shall not be affected, provided that the remaining terms or provisions can be construed in substance to constitute the agreement which the Parties intended to enter into on the Effective Date.

28. **Signature Authority.** Each Party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.

29. **Sole Agreement.** This Agreement, including the Schedule and Exhibits, contains the entire agreement of the Parties relating to the Services, rights, and obligations and terms, covenants and conditions contained in this Agreement and assumed by the Parties. No inducements, representations or promises have been made, other than those stated in this Agreement. No oral promise, modification, change, or inducement shall be effective or given any force or effect.

30. **Time of Essence.** Time is expressly declared to be of the essence of this Agreement and of each provision, and each provision is declared to be a material, necessary and essential part of this Agreement.

31. **No Third Party Beneficiaries.** The Parties understand and agree that the enforcement of the terms, covenants and conditions and all rights of action relating to enforcement, shall be strictly reserved to County and Consultant. Nothing contained in this Agreement shall give or allow any claim or right of action by any other third person. It is the express intention of County and Consultant that any person or entity, other than County or Consultant, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

32. **Gender/Plural.** References to feminine, masculine or neutral include the other, and references to the singular or plural include the other.

33. **Recitals.** Each of the recitals is incorporated in this Agreement, is deemed to be the agreement and a reflection of the intent of the Parties, and is relied upon by the Parties in agreeing to the provisions of this Agreement and in interpreting its provisions.

34. **Exhibits.** All exhibits attached to this Agreement are incorporated into this Agreement by reference.

35. **Corporate Qualifications.** If Consultant is a corporation incorporated outside the state of California transacting intrastate business within the meaning of California Corporations Code section 191, then Consultant shall, within five business days of the execution of this Agreement, provide County with a copy of the certificate of qualification issued by the California Secretary of State indicating that Consultant is currently qualified to do business in the state of California under California Corporations Code section 2105. If Consultant is a limited liability company formed outside the state of California transacting intrastate business within the meaning of California Corporations Code section 191, then Consultant shall, within five business days of the execution of this agreement, provide to County a copy of the certificate of registration issued by the California Secretary of State indicating that Consultant is currently qualified to do business in the state of California under California Corporations Code section 17708.02. Any corporation or limited liability company, whether or not incorporated in the state of California, must be in good standing to qualify to do business with County. Failure to provide County with the current certificates is grounds for County to terminate the Agreement.

36. **Political or Religious Activity.** No person performing any service or providing any good designated under this Contract shall participate in any political or religious activity on County time or in any manner involving the use of County property or expenditure of public funds nor conveying the implication of County endorsement or support for a candidate for local, state, or federal office. Notwithstanding the foregoing, nothing in this Contract shall be construed to unlawfully limit an individual's Constitutional rights. Accordingly, the limitations contained in this section are for the sole purpose of preventing proselytizing and politicking while engaged in the performance of services under this Contract.