

SERVICES AND SOFTWARE LICENSE AGREEMENT

This Services and Software Agreement (Agreement) is made and entered into as of , 2011 (the "Effective Date"), in Fresno, California, by and between the Fresno County Employees' Retirement Association, a Political Subdivision of the State of California, hereinafter referred to as "FCERA," and TEGRIT Technologies, a Michigan corporation doing business at 19500 Victory Pkwy, Ste 250, Livonia, MI 48152, hereinafter referred to as "TEGRIT", with reference to the following:

A. FCERA wishes to acquire a new IT system that will provide efficient pension member administration with an integrated electronic data management system, workflow and member web portal, as more fully described in its Request for Proposal for Pension Administration System dated April 21, 2011, FCERA-PAS-RFP-000 (the "RFP").

B. TEGRIT provided a proposal to FCERA in response to the RFP dated June 1, 2011 to provide, install, integrate, implement and service the system (such proposal and all amendments thereto, and all responses provided by TEGRIT to FCERA in connection with the proposal are referred to collectively as the "Response").

C. Based on the Response, FCERA selected TEGRIT to provide the system and related services, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

- (a) "Acceptance Criteria" has the meaning given to it in Section 5(a).
- (b) "Acceptance Period" has the meaning given to it in Section 5(b)(i).
- (c) "Authorized Users" shall mean FCERA's employees, employers for which FCERA administers plans, Beneficiaries who register and are approved by FCERA's System Administrator, and independent contractors and consultants engaged by FCERA solely to provide services to it in connection with the System.
- (d) "Beneficiary" shall mean any individual who is a member of FCERA or a FCERA administered plan or an individual entitled to a benefit administered by FCERA.

(e) "Deliverable" means a particular product, report, or other work that is provided or to be provided by TEGRIT to FCERA and identified in a Statement of Work or Change Order.

(f) "Documentation" shall mean all of TEGRIT's standard user and system manuals and other written or electronic material for the Software.

(g) "FCERA Code" shall mean (i) any FCERA-owned modification to the Software and/or Web Site that is authored by TEGRIT; and (ii) all modifications to the Source Code, including without limitation, all related charts, notes, books, records, and data, either authored or owned by FCERA.

(h) "Intellectual Property" shall mean patent, copyright, trademark, trade secret and other intellectual and intangible property rights, including all registrations and applications therefore, and all continuations, continuations in part, divisional applications, and renewals of any of the foregoing.

(i) "Interfacing Systems" means other systems of FCERA or other entities with which the System must properly interoperate.

(j) "Milestone" means a milestone for TEGRIT's performance set forth in Schedule B.

(k) "OnBase" means the electronic document management system known as "OnBase", licensed by Hyland Software.

(l) "Recommended Infrastructure" shall mean the hardware, servers, network capabilities, and software identified on Schedule F.

(m) "Requirements" means the functional requirements and technical requirements for the System, and the reporting requirements, management requirements, and requirements for business process reengineering services, as set forth in the RFP and further defined in this Agreement and the Statements of Work and in agreed upon specifications for the System.

(n) "Services" means the activities of TEGRIT and its subcontractors necessary to fulfill TEGRIT's obligations as set forth in this Agreement and the RFP, subject to

the Response, including, without limitation, services to provide, install, integrate, implement and service the necessary Software components of the System. For the avoidance of doubt “Services” shall be subject to the assumptions articulated on Section 11 of the Response.

(o) “SLA Services” means those Services to be provided by TEGRIT pursuant to the Service Level Agreement or any successor agreement.

(p) “Software” shall mean: (i) the most current version of the software solution known as “ARRIVOS”; (ii) any other software owned by TEGRIT or a third party that is referenced by TEGRIT in the Response as constituting part of the solution delivered by TEGRIT under this Agreement; and all related supporting databases and applications, together with all components, modules, updates, software upgrades, additions, error corrections, modifications, enhancements and conversions thereof that are provided by TEGRIT to its customers generally (collectively, “Software Updates”), and any modifications and interfaces needed for the System to properly interoperate with the Hardware, the Interfacing Systems and Software Updates thereto.

(q) “Source Code” means the source code form of Software, including the materials listed in Schedule D, all of which, where applicable, will be on media able to be compiled, read and processed on the System.

(r) “Statement of Work” has the meaning given to it in Section 2(b).

(s) “Support/Maintenance Services” means the support/maintenance services TEGRIT has agreed to supply to FCERA under this Agreement, as described in the Service Level Agreement (Schedule C).

(t) “System” as used herein means the Pension Administration System described in the RFP and the Requirements.

(u) “Time and Material Rates” means the time and material rates set forth in Schedule E attached hereto.

(v) “Web Site” shall mean the web site owned by TEGRIT that will provide access to the Software hosted by TEGRIT, pursuant to Schedule A.

2. SERVICES.

(a) Services.

(i) FCERA has retained TEGRIT to license and implement the fully functional System, including a fully integrated web portal, workflow management and electronic data management system as described in the RFP, in accordance with the Requirements. TEGRIT shall provide the Services to FCERA on the terms described in the RFP, subject to the Response. TEGRIT and FCERA specifically agree and acknowledge that the RFP and Response, including without limitation the terms, duties, obligations, performance conditions, and services levels described therein, are incorporated by reference herein. In the case of conflict, the terms of this Agreement will predominate, followed by the Response (including without limitation, Section 6 and Section 11 thereof), and then the RFP.

(ii) TEGRIT will provide hosting services for the Software (the "Hosting Services"), described in Schedule A, according to and under the terms of the Service Level Agreement attached hereto as Schedule C. For so long as the Service Level Agreement obligates TEGRIT to provide Hosting Services, FCERA may access the Web Site as necessary for FCERA to access the Software and Services.

(iii) As part of the Services but subject to FCERA's license to OnBase from its owner, TEGRIT will install and implement OnBase at the Fresno County Data Center located at ITSD 10th Street, Fresno, CA.

(b) Statements of Work. The parties may execute order for services to be performed by TEGRIT hereunder ("Statements of Work" or "SOWs"). SOWs will describe the work to be done, the Deliverables, the results to be achieved, the start date, the key personnel to be provided, the Acceptance Criteria, and any other agreed terms. In the event of any inconsistency between the main body of this Agreement and a SOW, the main body will prevail unless the SOW specifically identifies by Section number the provision to be modified and expressly identifies such modification as a modification to the terms of this Agreement. Such modification by a SOW will apply only to such SOW.

(c) New Requirements. Should, during the Design phase of the implementation, a new requirement not contained in the RFP or the Response, or a legitimate clarification of the same, arise both FCERA and TEGRIT will make their best efforts to resolve these and if necessary prepare a SOW for any additional TEGRIT services required with hours and dollar estimates and subject to FCERA's written approval. In such an instance, properly

executed SOW(s) will be executed and become subject to this Agreement's terms and conditions.

(d) Change Orders.

(i) Either party may at any time propose a change to a SOW. If TEGRIT believes that such change will increase TEGRIT's costs or delay completion, the parties will negotiate in good faith to try to accommodate such requests. TEGRIT will price any additional fees, at FCERA's option, based on Time and Material Rates or fixed cost. TEGRIT will disclose and explain to FCERA its method of pricing a change order. No such change will be effective unless and until set forth in a written amendment to the SOW which is approved and signed by the parties. Any such agreed modifications will be performed by TEGRIT in accordance with such amendment and this Agreement. Except as otherwise provided below, any failure to so agree to a proposed change will not impair the enforceability of the other terms herein or in a SOW.

(ii) If the parties fail to agree to a proposed change, then FCERA may engage a third party to perform, or may itself perform, the changed work and any Services or Deliverables under the Agreement related to such change ("Alternative Solution"). Except as otherwise expressly provided below in this Section 2(d)(ii), TEGRIT shall be, and hereby is, relieved and released from all contractual obligations in this Agreement arising from or relating to the Alternative Solution and is excused and released from and against any liability arising from or relating to the third party's performance and/or the Alternative Solution. TEGRIT will cooperate with FCERA and the third party, at TEGRIT's customary rates, and will provide materials and rights, all as reasonably necessary, to enable and facilitate the third party's performance, and will adjust its overall performance as necessary to accommodate the Alternative Solution, provided that if the foregoing adjustment requires any changes to an SOW, that such changes shall be negotiated in good faith pursuant to Section 2(d)(i). For the avoidance of doubt, nothing in this Section 2(d)(ii) shall grant such third party any license and/or ownership rights in or to Documentation, Software, Source Code, System, or the Web Site.

3. LICENSE AND SOURCE CODE

(a) Software. Subject to the terms of this Agreement, TEGRIT hereby grants to FCERA a nonexclusive, nontransferable, perpetual license, without the right to sublicense, (as set forth in Section 2(a)(ii) above and Schedule A) to use the Software and the

Documentation all only in connection with the administration of pension benefits to Beneficiaries (the "Permitted Purpose"). FCERA may duplicate and distribute the Documentation to Authorized Users only.

(b) FCERA Code. FCERA shall, and hereby does, grant to TEGRIT a sole (exclusive of all parties other than FCERA), fully paid up, royalty free, perpetual, irrevocable, worldwide license, with the right to sublicense through multiple tiers, to reproduce, modify, perform, display, and distribute the FCERA Code for any purpose whatsoever all in any media now known or hereinafter invented. FCERA shall promptly upon TEGRIT's request, deliver then-existing FCERA Code to TEGRIT, in a commercially reasonable form and media.

(c) Source Code.

(i) Upon acceptance in accordance with this Agreement, TEGRIT will deliver the complete Source Code for the Software to FCERA. FCERA shall keep such Source Code confidential and shall not access, use, or modify it, except that upon the occurrence of a Trigger Event, FCERA may thereupon use the Source Code to use, adapt, and exercise all other rights to the Software contemplated hereunder. The following are "Trigger Events":

(A) TEGRIT ceases doing business and its business is not continued by another corporation or entity;

(B) TEGRIT files a voluntary petition or has a voluntary petition filed against it under the United States Bankruptcy Code, as amended or similar insolvency statute, makes an assignment for the benefit of its creditors generally or seeks the appointment of (or has appointed involuntarily) a receiver, becomes insolvent or bankrupt, admits in writing its inability to pay its debts as they mature or taken any action for the purpose of entering into winding-up, dissolution, insolvency, bankruptcy, reorganization or similar proceedings analogous in purpose or effect thereto, or any such action is instituted against it;

(C) TEGRIT is debarred by FCERA, the State of California or any agency or department thereof;

(D) TEGRIT commits a material breach of its obligations related to this Agreement which remains uncured for thirty (30) days after written notice thereof;

(E) maintenance and support for the Software is no longer available ; or

(F) TEGRIT declines to provide any services that are essential to FCERA's use of the System or declines to provide modifications, customizations or enhancements to the Software that TEGRIT is obligated to provide in this Agreement or any SOW.

(ii) TEGRIT will update the Source Code to include all Software Updates to ensure that it is at the same version of the Software then being utilized by FCERA, within thirty (30) days after the object code of such version is delivered or made available to FCERA. FCERA may engage a third party to verify the Source Code and such updates, and TEGRIT may participate in any such verification. FCERA will bear the cost of the verification, except that TEGRIT will bear the reasonable cost thereof if the verification reveals a material breach of TEGRIT's obligations regarding the deposit of Source Code.

(d) Infrastructure Requirements. TEGRIT represents and warrants that the Recommended Infrastructure, when maintained and operated in a commercially reasonable manner, is sufficient to operate the System. If additional items of hardware, software and/or services are required to satisfy the preceding sentence, TEGRIT will provide such items at no additional cost to FCERA. TEGRIT acknowledges that FCERA has relied and will rely on TEGRIT's experience and expertise in providing, installing, integrating, implementing and servicing the System under this Agreement.

4. PROJECT RESPONSIBILITY; DELIVERABLES; SYSTEM WARRANTY; SUPPORT.

(a) Management. TEGRIT will manage the project and shall designate a Project Manager, currently Matt Becker, to manage and supervise TEGRIT's employees or agents in performance of the Services. The Project Manager will coordinate the efforts of all TEGRIT personnel and subcontractors working in connection with this Agreement. TEGRIT shall not remove said individuals from the work without the prior written consent of FCERA provided; however, such restriction shall not apply to instances of employment termination, serious illness, death, or other cause beyond TEGRIT's control. TEGRIT's Project Manager shall have full authority to act for TEGRIT on all matters relating to the daily operation of this Agreement; and shall be reasonably available during FCERA's normal working hours for

telephone contact and to meet with FCERA's personnel designated to discuss TEGRIT's performance or the project generally.

(b) Replacements. Upon request by FCERA, TEGRIT shall replace any of TEGRIT's personnel or subcontractors assigned to perform services under this Agreement, who are in FCERA's reasonable opinion, unable to effectively carry out the responsibilities of this Agreement. TEGRIT will promptly provide a qualified replacement acceptable to FCERA, ensuring continuity in the Services. FCERA will not be charged for any such replacement until such time as FCERA reasonably determines that the replacement has become knowledgeable regarding and is contributing to the Services, and FCERA's approval of a replacement will not constitute approval of any resulting delay in the Services.

(c) TEGRIT Personnel. Unless otherwise agreed, TEGRIT personnel will perform Services at FCERA sites(s) during FCERA's regular work days and normal work hours. TEGRIT will assign such personnel to perform the Services hereunder with the experience, knowledge and availability to complete their assigned responsibilities. TEGRIT will provide to FCERA qualifications for its personnel assigned to FCERA. FCERA may evaluate all personnel assigned to perform Services under this Agreement and accept or reject any such personnel based upon the background or experience.

(d) Compensation. FCERA has no responsibility for any compensation or other benefits due to TEGRIT personnel, including severance, notice, payment in lieu of notice, health benefits, disability insurance, and workers' compensation coverage. TEGRIT, not FCERA, will remit, withhold and pay any and all taxes and contributions that an employer is legally required to pay with respect to the employment of employees of TEGRIT.

(e) FCERA Locations. While at FCERA locations, TEGRIT's personnel, agents, and subcontractors will: (1) observe FCERA business hours and holiday schedule; (2) comply with reasonable requests, standard rules, and regulations of FCERA communicated in writing to TEGRIT regarding personal and professional conduct generally applicable to such locations; and (3) otherwise conduct themselves in a business-like manner. In the event that FCERA determines in good faith that a particular employee, contractor, or subcontractor of TEGRIT is not conducting himself or herself in accordance with this Section, FCERA may provide TEGRIT with written notice and documentation of such conduct. Upon receipt of such notice, TEGRIT will promptly investigate the matter and take appropriate action, which may

include: (i) establishment of an evaluation period during which the individual will be given the opportunity to correct any problems; (ii) removing him or her from the project, in the event the individual fails to perform satisfactorily prior to expiration of the evaluation period; (iii) providing FCERA Project Manager with prompt notice of such removal; and (iv) replacing him or her with a similarly qualified individual.

(f) Communications.

(i) Meetings. TEGRIT will keep the FCERA Project Manager fully advised and informed at all times with respect to the progress of the Services and the results obtained therefrom. The TEGRIT Project Manager and key personnel will confer and/or meet with the FCERA Project Manager as requested. At least bi-weekly the TEGRIT Project Manager and such other members of the project staff, as appropriate, will meet with the FCERA Project Manager to discuss project status, timelines, problems, and any other matters relating to the project.

(ii) Reports. TEGRIT will report to the FCERA Project Manager weekly on the overall status of the Services for the project as a whole, completion of Deliverables, and other matters affecting the effective delivery of Services, in form and substance, and either written or oral, as reasonably requested by the FCERA Project Manager.

(g) Schedule. TEGRIT and FCERA agree that the project timeline included as Schedule B of this Agreement will control the project. Modifications to the timeline will be agreed upon in writing and approved by the TEGRIT Project Manager and the FCERA Retirement Administrator, currently Roberto L. Peña.

(h) SLA. TEGRIT shall provide support and solution availability as set forth in Schedule C and elsewhere in this Agreement.

5. ACCEPTANCE

(a) Acceptance Criteria. All Deliverables will be subject to acceptance testing by FCERA to verify that such Deliverables satisfy (i) Requirements; and (ii) any other acceptance criteria mutually agreed to by FCERA and TEGRIT (collectively, the "Acceptance Criteria").

(b) Deliverables Acceptance. If TEGRIT is required to submit any Deliverables under a SOW, then, unless otherwise set forth in such SOW:

(i) Testing. Acceptance testing for all the Deliverables will commence within a mutually agreeable timeframe that is generally responsive to the Proposed Project Plan (Schedule B). If FCERA does not provide notice of rejection by the end of the Acceptance Period, the Deliverable will be deemed accepted.

(ii) Corrections. In the event that a Deliverable does not conform to its Acceptance Criteria, FCERA will give TEGRIT written notice thereof. FCERA's acceptance will not be unreasonably withheld. Such notice will specify the reason for the failure in enough detail to allow TEGRIT to recreate it. TEGRIT will, at no additional cost to FCERA, promptly correct the failure. Upon completion of the corrective action, and at no additional cost to FCERA, the acceptance test will be repeated until the Deliverable has successfully conformed to the Acceptance Criteria.

(iii) Remedies. If a Deliverable continues not to conform to the Acceptance Criteria for 30 days after the end of the Acceptance Period, FCERA may (reserving all other remedies and rights under this Agreement and at law and in equity): (a) immediately terminate this Agreement or the applicable SOWs, in whole or in part, or (b) require TEGRIT to continue to attempt to correct the problem. Acceptance of a Deliverable will not be unreasonably withheld.

(c) Phase and System Acceptance. The System will be installed and implemented in Phases as described in Schedule B. Each Phase of the System will be installed, tested and accepted as provided below.

(i) Step 1: Phase Installation and TEGRIT Testing. For each Phase, TEGRIT will install the designated components of the System on a test site available to FCERA. After installation, TEGRIT will conduct all necessary testing and all necessary programming to ensure that the Phase performs and functions in accordance with the applicable Requirements. Upon completion of such installation and testing, TEGRIT will certify in writing to FCERA that such installation and testing have been completed and that the Phase is ready for FCERA to commence its User Acceptance Test.

(ii) Step 2: User Acceptance Test. After receipt of TEGRIT's installation certification for each Phase, FCERA will conduct a user acceptance test of the Phase ("User Acceptance Test"). Each User Acceptance Test must demonstrate that: (a) each of the functions for the System for such Phase, and all prior Phase(s), if any, have been provided and perform in accordance with this Agreement, including but not limited to the Requirements, Documentation and the applicable Acceptance Criteria; and (b) all applicable warranties have been met. In the event the Phase passes the User Acceptance Test ("User Acceptance"), FCERA will notify TEGRIT thereof in writing. If FCERA does not provide TEGRIT with a failure notice, pursuant to Section 5(c)(iv), within thirty (30) days of the completion of the User Acceptance Test, then the Phase will be deemed to have received User Acceptance.

(iii) Step 3: Production Parallel Test. After the last User Acceptance Phase of the System, FCERA will test the System in a live operating environment ("Production Parallel Test"), in which the System is operated for a period of ninety (90) consecutive days. The Production Parallel Test must demonstrate that: (a) each of the functions of the System, and all prior Phases, if any, have been provided and perform in accordance with this Agreement, including but not limited to the Requirements, and the applicable Acceptance Criteria; and (b) all applicable warranties have been met or exceeded. When the Production Parallel Test is successfully completed, FCERA will so notify TEGRIT in writing ("Final Phase Acceptance"). If FCERA does not provide TEGRIT with a failure notice, pursuant to Section 5(c)(iv), within ninety (90) days of the completion of the Production Parallel Test, then the System will be deemed to have received Final Phase Acceptance.

(iv) Failures and Corrections. If any Phase fails to pass the User Acceptance Test or Production Parallel Test, as the case may be, FCERA will so notify TEGRIT in writing, specifying the nature of such failure in reasonable detail sufficient to allow TEGRIT to recreate it. TEGRIT will have thirty (30) calendar days in which to correct the problem after which FCERA will have forty-five (45) days, or the balance of the applicable test period, whichever is greater, to verify whether the failure has been corrected. In the event the System continues to fail the User Acceptance Test or Production Parallel Test, as the case may be, after three (3) attempts to correct the same material problem, FCERA may (reserving all other remedies and rights under this Agreement and at law and in equity): (a) immediately terminate this Agreement, in whole or in part, or (b) require TEGRIT to continue to attempt to correct the problem.

(d) Acceptance Testing Consultation. TEGRIT will provide on-site consultation Services to assist FCERA with planning and executing acceptance testing.

6. OWNERSHIP; INTELLECTUAL PROPERTY RIGHTS; CONFIDENTIALITY

(a) Software. Except for the licenses granted to FCERA in the Agreement, FCERA agrees and acknowledges that FCERA has no right, title and/or interest in and to the Web Site, Software, Source Code, Documentation, and all Intellectual Property therein, and that FCERA will not obtain or claim any ownership interest in the Software, Source Code, or Documentation, or any portion thereof, or any Intellectual Property therein. FCERA agrees and acknowledges that the Software, Source Code, and Documentation contain the valuable trade secrets and proprietary information of TEGRIT and its licensor which have been developed at great expense over many years. FCERA will not obscure, alter or remove any patent, copyright, trademark, service mark or other marking or legend contained on or in the Software, Source Code, or Documentation.

(b) FCERA Code. Except for the license granted to TEGRIT herein, all FCERA Code, including all Intellectual Property therein, will be owned solely and exclusively by FCERA. TEGRIT hereby assigns to FCERA exclusively and on a worldwide basis all right, title, and interest in and to all Intellectual Property in and to such FCERA Code that it may have or obtain, without further consideration, free from any claim, lien for balance due, or rights of retention thereto on the part of TEGRIT.

(c) TEGRIT Confidentiality. FCERA agrees that the Source Code, Web Site and Software, and the information contained therein, is confidential. FCERA shall not, without the express written authorization of TEGRIT:

(i) distribute, publish, modify, copy, sell or market the Web Site or Software to any third party, individual (including, without limitation, FCERA employees or contractors) or entity that has not been issued a User ID and passwords ("User IDs") by FCERA;

(ii) communicate or permit to be communicated any User ID to any person not authorized by FCERA to receive such User ID.

(d) User IDs. TEGRIT may revoke any User IDs or otherwise immediately withdraw access to the Web Site or Software from any individual or group that is using the Web

Site or Software in breach of this Agreement. Promptly after such action, TEGRIT shall provide FCERA written notice of its revocation rationale.

(e) Competing Products. FCERA shall not, nor for the avoidance of doubt may any of FCERA's employees, use the Source Code, Documentation, Web Site or Software (or information derived from any of them) to develop, direct, launch or operate any business venture that competes with TEGRIT's exploitation of the Web Site, Source Code, Documentation, or Software.

(f) General Confidentiality. Each party agrees that it will hold all confidential information of the other party secret, will treat the other party's confidential information with the same degree of care as it does its own similar information (but in no event will either party use less than a reasonable degree of care), will not disclose any such confidential information to third parties, and will not use any such confidential information, except as contemplated by this Agreement. Without limitation, TEGRIT shall maintain the confidentiality of all its records with respect to this Agreement, including, but not limited to, billing and the FCERA records, as it does for other accounts. TEGRIT may have access to or learn of information that should reasonably be considered the confidential information of FCERA either due to the nature of the information or the manner of disclosure, and agrees to hold such confidential information in strictest confidence and not to disclose or share such with anyone, without prior written consent, and to use such for the sole benefit of FCERA. TEGRIT may refer to FCERA in its customer lists and in advertising and promotional materials, and may use FCERA as a reference to potential clients. For the avoidance of doubt, except as specifically set out in this Agreement, nothing in this Agreement will grant, suggest or imply any authority for one party to use the name, trademarks, service marks, trade names or any other mark or brand identifier, whether or not registered or used in commerce, of the other for any purpose whatsoever. FCERA agrees and acknowledges that the Software, Source Code, and Documentation are confidential information of TEGRIT. FCERA will not use, nor will it allow the use of any TEGRIT confidential information for any purpose other than the Permitted Purpose. TEGRIT will not use, nor will it allow the use of any FCERA confidential information for any purpose other than the provision to FCERA of access to the Web Site and use of the Software. Each party shall take any and all appropriate steps to impose these confidentiality obligations on its employees, contractors and agents.

(g) Exceptions. The confidentiality provisions of this Agreement shall not apply to: (i) information that is already known to the receiving party at the time of disclosure or is or becomes publicly known through no wrongful act on the receiving party's part; (ii) information that is rightfully received by the receiving party from a third party without breach of this Agreement; (iii) information that is developed by the receiving party independently and without breach of this Agreement, provided such development was not based on the confidential information of the disclosing party; (iv) information that was or is furnished by a third party to the disclosing party without restrictions on the third party similar to those set forth herein; and/or information that is required to be disclosed by applicable law (provided that the party which is required to make such disclosure has consulted with the other party so far as is practicable before such disclosure).

(h) Notices. Each party will report to the other party any actual or suspected violation of the other party's confidential information under this Section, and will take such further steps as may reasonably be requested by the other party to prevent or remedy any such violation.

(i) Remedies. Because the disclosure of confidential information is likely to cause irreparable harm to the non-disclosing party, and the unauthorized use or transfer of the Software is likely to diminish substantially the value of such Software and irreparably harm the owning party and will not be susceptible of cure by the payment of monetary damages, if either party breaches the provisions of this Section 6, the non-breaching party will be entitled to injunctive and/or other equitable relief, in addition to other remedies afforded by law.

(j) Privacy.

(i) TEGRIT expressly understands and acknowledges that FCERA's data includes non-public personal information about its customers ("NPPI") and as such is subject to federal and state privacy statutes and regulations (collectively, the "Privacy Laws"). NPPI includes personally identifiable information, and any list, description or other grouping of individuals (including publicly available information pertaining to them) that is derived using any personally identifiable information that is not publicly available.

(ii) Without exception, TEGRIT shall not use or disclose the NPPI it receives for purposes other than those necessary to carry out the Services subject to this Agreement and the Privacy Laws. Without limiting the foregoing, TEGRIT shall be prohibited

from selling any NPPI it receives. TEGRIT shall implement and maintain safeguards for the NPPI it receives consistent with the requirements of the Privacy Laws in order to (a) ensure the security and confidentiality of the NPPI, (b) protect against anticipated threats or hazards to the security or integrity of such information, and (c) protect against unauthorized access to or use of such information.

(iii) In the event TEGRIT breaches any Privacy Law governing NPPI, TEGRIT shall (1) give FCERA prompt notice of such a violation as required by applicable law and (2) take all remedial or other actions required by applicable law.

7. FEES AND PAYMENT

(a) Fees. In consideration of and subject to the Services rendered in accordance with all terms and conditions and specifications set forth herein, FCERA will make payment as follows:

(i) Excluding amounts due in connection with post-termination transition services and SLA Services, the total all-in cost of amounts due under this Agreement for Software and the Services shall not exceed FIVE MILLION FOUR HUNDRED FIFTY TWO THOUSAND THREE HUNDRED AND TWENTY TWO DOLLARS (\$5,452,322.00). For avoidance of doubt, (a) this fee excludes any licensing costs associated with the OnBase product (which will be paid directly to its licensor Hyland Software by FCERA), without the prior written consent of FCERA, but includes Services related to the configuration, integration, installation and implementation of OnBase; and (b) TEGRIT shall perform the Services for an amount not to exceed \$5,452,322.00 including the cost of the professional services, travel expenses, hardware, software and initial licenses required to successfully implement the capabilities described in the RFP or approved and signed SOW attached to this Agreement.

(ii) FCERA will pay TEGRIT, and TEGRIT may invoice FCERA, designated portions of the fixed price upon achieved Milestones (which will be based upon accepted Deliverables or other events) as set forth in Schedule B and in accordance with this Agreement. FCERA may withhold the Holdback amounts set forth in Schedule B until the relevant Milestone is achieved. TEGRIT will be entitled to payment for a particular Milestone if it has performed as required but the Milestone is not timely achieved or completed due to the breach or other fault of FCERA.

(b) Invoices. TEGRIT will invoice FCERA not later than three (3) months after the Service is provided or Milestone is achieved, as applicable, in accordance with the applicable SOW. Each such invoice will be in a format approved by FCERA and will set forth in reasonable detail:

- (i) an itemized accounting of the fees and any applicable credits and adjustments including the calculations used to determine the fees;
- (ii) the Services performed and Milestone achieved;
- (iii) such information as FCERA may require in order to permit FCERA to make internal charge-backs as appropriate; and
- (iv) any other information or data necessary to support such fees, credits, and adjustments. Any improperly formatted invoices and invoices containing errors or omissions may be returned by FCERA for correction and resubmission, provided that such return occurs timely and that FCERA identifies in reasonable detail what is not correct.

(c) Payment by FCERA. FCERA will pay TEGRIT all undisputed amounts, set forth in invoices properly issued in accordance with this Section, within 45 days after receipt thereof. FCERA will have no more than 45 days to make payment to TEGRIT following the date a disagreement regarding a payment dispute is resolved with TEGRIT.

(d) Set-Off. FCERA may set off against any and all amounts otherwise payable to TEGRIT pursuant to any of the provisions of this Agreement: (1) any and all amounts claimed by FCERA in good faith to be owed by TEGRIT to FCERA pursuant to any of the provisions of this Agreement; and (2) any and all amounts claimed by FCERA in good faith to be owed by TEGRIT pursuant to any other written agreement between the parties. Within five (5) days after any such set-off by FCERA, FCERA will provide TEGRIT with an accounting of such set-off and a written statement of the reasons therefor.

(e) Disputed Amounts. FCERA may withhold payment of fees or any other charges otherwise due to TEGRIT under this Agreement to the extent that FCERA disputes such charges in good faith. In such case, FCERA will provide to TEGRIT a reasonably detailed written explanation of the basis for the disagreement and will continue to make payments of undisputed amounts as otherwise provided in this Agreement. If any disputed amounts are later determined to have been improperly withheld (i.e., properly charged by

TEGRIT), then FCERA will pay the withheld amount in accordance with this Agreement, until paid in full. If any paid amounts are later disputed by FCERA and determined to have been improperly paid (i.e., improperly charged by TEGRIT), then TEGRIT will promptly, but no later than fifteen (15) days after such determination, pay FCERA the improperly paid amount. The failure of FCERA to withhold payment will not waive any other rights FCERA may have with respect to disputed amounts or overpayments. If an audit is performed relating to amounts disputed hereunder and the result of such audit reveals an overcharge of fees by TEGRIT in excess of five percent (5%) over the correct amount, then TEGRIT will pay the cost of such audit.

(f) Taxes. The fees will be inclusive of all taxes imposed with respect to the provision of the Services hereunder, including any sales, use, excise, value-added, services, consumption, or other tax; provided, however, that FCERA will not be responsible for, and the fees will not include, any taxes imposed on or arising from the following: (a) charges for goods and services provided by FCERA to TEGRIT in connection with this Agreement; (b) TEGRIT's income, revenue or property; or (c) any franchise or privilege taxes. TEGRIT will separately itemize taxes in any TEGRIT invoices. The parties will cooperate to otherwise minimize and determine tax costs arising from this Agreement, including the imposition of sales, use, excise, and other taxes on asset transfers to and from TEGRIT. Each party will be responsible for taxes on its own equipment, assets, and income.

(g) Hosting Fees. Fees for Hosting Services shall be subject to the terms of the Service Level Agreement and Schedule A.

(h) Extra Services. Any work performed by TEGRIT for FCERA that is in addition to the Services described in the RFP shall be billed at TEGRIT's Time and Material Rates (Schedule E).

(i) Sole Compensation. The fees set forth in this agreement, as amended by any properly executed SOWs, shall be the sole compensation owed by or to any person for TEGRIT's services under this Agreement.

(j) Proof of Performance. At the onset of the Services, TEGRIT and FCERA will engage in a Proof of Performance period as detailed in an initial SOW attached to this Agreement. The purpose of the Proof of Performance period is to prove the working relationship and TEGRIT's ability to deliver to FCERA's expectations as established in this Agreement, prior

to either party making a substantial financial investment. If FCERA determines the working relationship to be flawed without remedy, FCERA reserves the right to terminate this entire Agreement with no further obligations to TEGRIT subject to the termination terms established in this Agreement with payment as agreed in the SOW for the Proof of Performance and elsewhere.

8. INDEPENDENT CONTRACTOR.

(a) In performance of the work, duties and obligations assumed by TEGRIT under this Agreement, it is mutually understood and agreed that TEGRIT, including any and all of the TEGRIT's officers, agents, employees, and subcontractors or partners working on this project will at all times be acting and performing as an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or associate of FCERA. Furthermore, FCERA shall have no right to control or supervise or direct the manner or method by which TEGRIT shall perform its work and function. However, FCERA shall retain the right to administer this Agreement so as to verify that TEGRIT is performing its obligations in accordance with the terms and conditions thereof.

(b) TEGRIT, and any subcontractors or partners on this project, and FCERA shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

(c) Because of its status as an independent contractor, TEGRIT shall have absolutely no right to employment rights and benefits available to FCERA employees. TEGRIT shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, TEGRIT shall be solely responsible and save FCERA harmless from all matters relating to the provision of employee benefits to, and payment of, TEGRIT's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, TEGRIT may be providing services to others unrelated to FCERA or to this Agreement.

9. NON-ASSIGNABILITY.

Neither party shall assign or delegate this Agreement or any portion thereof to a third party without the prior written consent of the other party, provided that either party may assign this Agreement in connection with a sale of substantially all of its assets, a merger, or other corporate

reorganization, Any attempted assignment without such prior written consent in violation of this Section automatically shall be deemed null and void.

10. TEGRIT RESPONSIBILITY.

(a) Prime Contractor. TEGRIT is the prime contractor under this Agreement and as such assumes full responsibility for the delivery and performance of the Services and System in accordance with the terms of this Agreement, including, but not limited to any Services provided by its suppliers, subcontractors or third parties. Notwithstanding anything to the contrary contained herein, FCERA's approval of a subcontractor will not operate as a waiver of any right FCERA may have against TEGRIT.

(b) Subcontractors.

(i) Conditions. Except as expressly provided herein or with the prior written consent of FCERA in each instance, TEGRIT may not subcontract the performance of its obligations under this Agreement. All subcontracts will be subject to FCERA's prior written authorization. FCERA hereby consents to the following subcontractors: Stria, located at 4300 Resnik Court #102, Bakersfield, CA 93313 and Ventera Corporation located at 1881 Campus Commons Drive, Suite 350, Reston, VA 20191. All subcontracts must provide that:

(A) nothing contained in such agreement will impair the rights of FCERA;

(B) FCERA is an intended third-party beneficiary of subcontractor's obligations therein, but nothing contained therein or in this Agreement creates any other contractual relationship between the subcontractor and FCERA;

(C) the subcontractor agrees to be bound by confidentiality provisions consistent with those set forth in this Agreement; and

(D) the subcontractor agrees that TEGRIT may assign such subcontract to FCERA if requested by FCERA upon termination of this Agreement.

(c) Responsibility. TEGRIT is fully responsible to FCERA for its subcontractors' compliance with the terms of this Agreement and their subcontracts. TEGRIT will ensure that its subcontractors are covered by workers compensation and other insurance as

required by applicable law. TEGRIT will defend, indemnify and hold harmless FCERA and its affiliates from and against all claims or lien rights made or asserted by TEGRIT's subcontractors and TEGRIT's suppliers arising out of TEGRIT's performance or breach of this Agreement or any subcontract or supply agreement. TEGRIT will be responsible for all payments to its subcontractors. FCERA may withdraw its consent to a subcontract if the subcontractor materially impairs the performance of this Agreement. FCERA will so notify TEGRIT, and FCERA and TEGRIT will work together in good faith to resolve the situation which may include replacement of the subcontractor.

(d) Assignment. In the event of a termination of this Agreement for any reason, and upon request by FCERA, TEGRIT hereby agrees to assign to FCERA, some or all agreements between TEGRIT and its subcontractors for which FCERA requests such assignment, in its discretion.

11. TERM AND TERMINATION PROVISIONS.

(a) General Term. The term of this Agreement shall commence on the Effective Date and continue indefinitely unless and until terminated in accordance herewith. For the avoidance of doubt, the foregoing term does not apply to the Service Level Agreement, attached hereto as Schedule C, or its successor documents, which shall each terminate according to their terms.

(b) Except as otherwise provided herein, upon any expiration or termination of this Agreement, FCERA will immediately (1) return to TEGRIT (or, at TEGRIT's option, destroy and certify in writing to TEGRIT that it has destroyed) the original and all copies of Source Code, FCERA Code, and/or Documentation in FCERA's control or possession, and (2) erase or destroy all such materials that are contained in computer memory or data storage apparatus of FCERA or under the control of FCERA. The foregoing will not apply if only the Services, including the Hosting Services and/or the SLA Services, are in whole or part terminated or expire in accordance herewith and FCERA elects to retain the Software license rights granted herein.

(c) Notwithstanding anything to the contrary in the foregoing, the provisions of Sections 1, 3(c), 6, 7, 13, and 17-19 will survive the termination or expiration of this Agreement in accordance with their terms.

(d) Termination will be in addition to, and will not prejudice, any of the parties' remedies at law or in equity.

(e) Termination by FCERA for Convenience. FCERA may terminate all or any part of this Agreement or any SOW separately without cause at any time by delivering to TEGRIT a written notice of termination for convenience specifying the extent to which TEGRIT's Services are terminated and the effective termination date. The effective termination date shall be no earlier than five (5) calendar days after such notice of termination for convenience is delivered to TEGRIT. In no event shall FCERA's termination of this Agreement under this Section be deemed a waiver of FCERA's right to make a claim against TEGRIT for damages resulting from any default by TEGRIT which occurred prior to the effective termination date.

(f) Termination by FCERA for Default. FCERA may immediately terminate all or any part of this Agreement or any SOW separately by delivering to TEGRIT a written notice of termination for default which specifies the effective termination date, under any one of the following circumstances:

(i) If TEGRIT commits a material default of this Agreement and subsequently fails to cure such default within thirty (30) calendar days (or such longer period as FCERA may authorize in writing) after receipt of written notice from FCERA specifying such default;

(ii) Upon written notice but without further cure period, if FCERA terminates according to Section 5(c)(iv);

(iii) Upon written notice if TEGRIT is subject to criminal conviction, or is found civilly or criminally liable by a trial court, jury or administrative body in connection with any matter involving breach of trust, breach of fiduciary duty, fraud, or theft;

(iv) Upon written notice if TEGRIT attempts or purports to assign this Agreement, or any portion hereof, or any of its rights or obligations hereunder, without obtaining FCERA's prior written consent; or

(v) The running of any grace period for cure of a default pursuant to this Section shall not limit FCERA's right to terminate this Agreement for convenience at any time, pursuant to Section 11(e) above.

(g) Termination by FCERA for Service Level Failure. FCERA may terminate this Agreement and any SOWs, in whole in part, by providing notice of such termination to TEGRIT, upon the occurrence of any of the following:

- (i) Failure of the same service level in three (3) or more consecutive months;
- (ii) Ten (10) or more Failures in a rolling six (6)-month period; or
- (iii) Fifteen (15) or more Failures in any rolling twelve (12)-month period.

As used in this Section 11(g), "Failure" means any separate instance in which a service credit is owed TEGRIT to FCERA under Schedule C (Service Level Agreement (SLA)).

(h) Termination by TEGRIT for Default. TEGRIT may terminate this Agreement in its entirety upon written Notice of Termination for Default if FCERA materially fails to perform any of its obligations under this Agreement and fails to cure such default within thirty (30) calendar days of receiving TEGRIT's written notice of such default, which notice describes in reasonable detail the nature of the default and TEGRIT's view as to the cure required in order to bring FCERA's performance into material compliance with its obligations under this Agreement.

(i) Post-Termination Responsibilities. If either party terminates this Agreement, and unless otherwise expressly directed by FCERA, TEGRIT shall take all reasonable and necessary steps to stop providing services under this Agreement on the effective termination date. Upon any termination of Services where FCERA retains the Software license rights, TEGRIT will, if directed by FCERA, provide all reasonable assistance to FCERA to transfer the terminated Services to FCERA or a new service provider. FCERA will not owe any fees to TEGRIT for such termination assistance services as a result of any termination under Section 11(f) or (g).

(j) Payment when Terminated for Convenience. If FCERA terminates this Agreement for convenience, FCERA shall pay TEGRIT for work already performed and reimbursable expenses incurred but for which TEGRIT has not been compensated through the effective termination date.

(k) Payment Withheld for Default. FCERA shall not authorize and shall withhold payment for Services not provided if FCERA terminates this Agreement for Default. Payment for services which FCERA received prior to the effective termination date will be paid in accordance with the terms hereof and incurred prior to the effective termination date.

(l) Excusable Default. If, after FCERA issues a notice of termination for default, it is determined for any reason that TEGRIT was not in default, or that such default was excusable, then the rights and obligations of the parties shall be the same as if FCERA had issued a notice of termination for convenience.

(m) Good Faith Transfer. Upon any termination of Services where FCERA retains the Software license rights, and to the extent directed by FCERA, TEGRIT shall reasonably cooperate with FCERA in good faith to effect a smooth and orderly transfer of such terminated Services and all applicable records to FCERA or a successor, which reasonable cooperation shall not exceed two hundred and forty (240) hours of services without TEGRIT's prior written consent..

(n) Cumulative Nature of Rights and Remedies. The rights and remedies of the parties provided by this Section are not exclusive, but cumulative and in addition to any other rights and remedies provided by law, in equity or under any other provisions of this Agreement.

12. WARRANTIES.

(a) TEGRIT hereby warrants to FCERA that for so long as TEGRIT is providing services pursuant to the Service Level Agreement (unless that Agreement is terminated due to TEGRIT's material default), that (1) the Software will materially conform to the Requirements as stated in the Response and the Documentation, provided that the Software receives correct and properly formatted data inputs from all software and hardware that exchanges data with or provides data to the Software; (2) the System will remain in good working order and perform all the functions and operate in accordance with this Agreement, including, but not limited to the Requirements and Documentation; (3) the System will be fully operational and usable in accordance with the terms and conditions of this Agreement; (4) the System and each module, component and function thereof will fully interoperate with the Interfacing Systems as defined in the Requirements; and (5) all Services will be provided in a timely, competent and professional manner. TEGRIT will promptly notify FCERA when it

becomes aware of any material problems or difficulties concerning the System's ability to meet the Acceptance Criteria and FCERA requirements that have not been disclosed to FCERA in this Agreement.

(b) Remedies. If FCERA believes that the Software or System does not materially conform with the above limited warranty, FCERA will promptly notify TEGRIT in writing and provide TEGRIT with sufficient documentation of such nonconformity to enable TEGRIT to reproduce and verify the same. TEGRIT's sole obligation with respect to any claims of nonconformance with the above limited warranty will be (i) to provide FCERA with an updated version of such item which is free of such nonconformity, (ii) to provide FCERA with a functionally equivalent software package which is free of such nonconformity and which, following delivery, will be regarded as an item of Software under this Agreement, or (iii) in the event TEGRIT is unable to accomplish any of the above, TEGRIT will accept a return of all such nonconforming Software and promptly refund to FCERA the fees paid related thereto. The remedies set forth in this Section 12(b) will constitute TEGRIT's sole obligation, and FCERA's sole remedy, for any breach of product warranty by TEGRIT.

(c) Exception. This limited warranty stated in this Section 12 will not be applicable in the event that any nonconformity arises from the negligence or intentional misconduct of any user of Software. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, FCERA EXPLICITLY ACKNOWLEDGES THAT THE ACCURACY OF FCERA'S WORK PRODUCT DEPENDS UPON THE ACCURACY OF THE FCERA- CONTRIBUTED DATA IMPORTED INTO THE SOFTWARE ("DATA"), AND HEREBY WAIVES AND COVENANTS NOT TO BRING ANY WARRANTY CLAIM THAT ARISES FROM OR RELATES TO DATA-INTRODUCED ERROR.

(d) Disclaimer. EXCEPT AS STATED IN THIS SECTION, THE SOFTWARE, WEB SITE AND SERVICES ARE "AS IS" AND TEGRIT AND ITS LICENSOR SPECIFICALLY DISCLAIM ALL WARRANTIES AND CONDITIONS, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SOFTWARE AND DOCUMENTATION, INCLUDING ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. TEGRIT AND ITS LICENSOR SPECIFICALLY DISCLAIM ANY WARRANTY THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET FCERA'S REQUIREMENTS OR WILL OPERATE IN COMBINATIONS OR IN A MANNER

SELECTED FOR USE BY FCERA (EXCEPT WITH RESPECT TO COMBINATIONS OR USES CONTEMPLATED BY THE DOCUMENTATION, AS WARRANTED IN THE PRECEDING PARAGRAPH), OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE. FCERA ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, IT HAS NOT RELIED ON ANY EXPRESS OR IMPLIED WRITTEN OR ORAL REPRESENTATION AS AN INDUCEMENT TO ENTER INTO THIS AGREEMENT.

(e) FCERA will be required to access or use the Internet in connection with the use of the Software. FCERA understands and agrees that the Internet is an unregulated, public network over which TEGRIT exerts no control. TEGRIT makes no representations or warranties whatsoever, and will have no liability whatsoever, with respect to the accuracy, dependability, privacy, security, authenticity or completeness of data transmitted over or obtained using the Internet, or any intrusion, disruption, loss of communication, loss or corruption of data, or other error or event caused or permitted by or introduced through FCERA's use of the Internet. FCERA is solely responsible for implementing adequate firewall, password and other security measures to protect its systems, data and applications from unwanted intrusion, whether over the Internet or by other means.

13. LIMITATIONS OF LIABILITY

(a) IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY DAMAGES RESULTING FROM LOST PROFITS, LOSS OF USE OF EQUIPMENT OR LOST CONTRACTS OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES IN ANY WAY ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE SOFTWARE OR DOCUMENTATION OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED, EVEN IF SUCH PARTY HAS BEEN MADE AWARE OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE FOLLOWING TYPES OF DAMAGES WILL ALL BE CONSTRUED AS DIRECT DAMAGES AND NOT AS INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES:

(i) EXTRA COSTS AND EXPENSES INCURRED TO PROCURE THE SERVICES FROM AN ALTERNATE SOURCE;

(ii) COST AND EXPENSES OF RESTORING ANY ALTERED OR LOST DATA OF FCERA; OR

(iii) COST OF REPLACING LOST OR DAMAGED EQUIPMENT AND SOFTWARE OR OTHER MATERIALS.

(b) EACH PARTY'S ENTIRE AGGREGATE LIABILITY TO THE OTHER PARTY, REGARDLESS OF THE FORM OF ANY CLAIM OR ACTION OR THEORY OF LIABILITY (INCLUDING CONTRACT, TORT, OR WARRANTY), WILL BE LIMITED TO THE FEES ACTUALLY PAID BY FCERA TO TEGRIT UNDER THIS AGREEMENT. THIS SUBSECTION WILL NOT APPLY TO CLAIMS ARISING FROM MISUSE OF CONFIDENTIAL INFORMATION, OR INTELLECTUAL PROPERTY, DUTIES OF INDEMNIFICATION, OR WILLFUL OR RECKLESS MISCONDUCT.

(c) FCERA acknowledges and agrees that the level of the fees under this Agreement have been set based on the application of the limitations described in this Agreement.

14. INDEMNIFICATION AND INSURANCE.

(a) Indemnification.

(i) TEGRIT, at its own expense, shall indemnify, defend, save, and hold harmless all FCERA, its trustees, officers, employees, contractors, agents, and representatives (collectively, "Covered Persons") from and against any and all liabilities, losses, injuries, suits, costs, charges, judgments, fines, penalties, expenses (including, without limitation, defense costs and attorneys fees), and claims for damages of any nature whatsoever; including, but not limited to, bodily injury, death, personal injury, or property damage (including, without limitation, any workers' compensation suits, liability or expense arising from or connected with work performed by or on behalf of TEGRIT by any person, including any subcontractors and/or partners, pursuant to this Agreement), to the extent directly arising from, or relating to (a) any bad faith, negligence, willful misconduct, improper or unethical practice in TEGRIT's performance of the Services; (b) any breach of any representation or warranty made by TEGRIT in this Agreement; (c) the breach of any covenant, agreement or obligation of TEGRIT contained in this Agreement or any other instrument contemplated by this Agreement, including, without limitation, infringement of Intellectual Property rights by the Software, FCERA

Code provided by TEGRIT, or the Services, breach of trust, breach of confidentiality, or violation of any Legal Requirement; and (d) any willful misrepresentation contained in any statement or certificate furnished by TEGRIT pursuant to this Agreement.

(ii) FCERA shall give TEGRIT prompt notice of any claim for which FCERA is entitled to indemnification pursuant to this Section and TEGRIT shall control the defense or settlement thereof; provided no such settlement or compromise shall be entered into without FCERA's prior written consent, which consent shall not be unreasonably withheld or delayed. TEGRIT shall have no right to settle or compromise any such claim without FCERA's consent, which consent can be withheld for any reason or no reason, if such settlement or compromise involves the issuance of injunctive or other non-monetary relief binding upon FCERA or a plea of guilty or novo contender on the part of FCERA in any criminal or quasi-criminal proceeding, or which involves any admission of liability or culpability on the part of FCERA, or which has any collateral estoppels effect on FCERA.

(iii) FCERA, at its own expense, will indemnify, defend and hold Tegrity, its shareholders, directors, officers, employees, contractors, and agents, harmless against any Claims arising from or relating to (i) privacy- or confidentiality-related Claims brought by Beneficiaries arising from or related to Data, other than those arising from or relating to Tegrity's breach of Article 6; (ii) workplace conditions at FCERA's place of business or the negligent actions or omissions of FCERA personnel; or (iii) FCERA's violation of any Legal Requirement, except if and to the extent the Claim arises from TEGRIT's breach, fault or other wrongful conduct. Tegrity may be represented in the defense of any such claim, at Tegrity's expense, by counsel of Tegrity's selection. FCERA will have no liability for settlements or costs incurred without its consent.

(iv) Notwithstanding anything in this Agreement to the contrary, Tegrity will not have any liability to Covered Persons to the extent that any Claim is based upon (a) use of the Software or Documentation in conjunction with any Data, equipment or software not provided or authorized by Tegrity or described in the Documentation, where the Software or Documentation would not itself be infringing or otherwise the subject of the claim; (b) use of the Software in a manner not described in the Documentation and not permitted by this Agreement; (c) use of the Software or Documentation in any unlawful, improper or inappropriate manner or for any unlawful, improper or inappropriate purpose; or (d) any claim of infringement of any

patent or copyright or misappropriation of any trade secret in which FCERA has a pecuniary or other material interest.

(b) Insurance. Without limiting FCERA's right to obtain indemnification from TEGRIT or any third parties, TEGRIT, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement:

(i) Commercial General Liability. Commercial General Liability Insurance limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000). This policy shall be issued on a per occurrence basis. FCERA may require specific coverages including completed operations, products liability, contractual liability, fire legal liability or any other liability insurance deemed necessary because of the nature of the contract.

(ii) Automobile Liability. Comprehensive Automobile Liability Insurance with limits for bodily injury of not less than Two Hundred Fifty Thousand Dollars (\$250,000) per person, Five Hundred Thousand Dollars (\$500,000) per accident and for property damages of not less than Fifty Thousand Dollars (\$50,000), or such coverage with a combined single limit of Five Hundred Thousand Dollars (\$500,000). Coverage should include owned and non-owned vehicles used in connection with the Agreement.

(iii) Workers' Compensation. A program of Workers' Compensation Insurance or a State Approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the TEGRIT and all risks to such persons under this Agreement.

(iv) Professional Errors and Omissions Liability Insurance. TEGRIT will secure an insurance policy for Professional Errors and Omissions Insurance with coverage of at least one million dollars (\$1,000,000.00) per claim or occurrence, three million dollars (\$3,000,000.00) annual aggregate, and shall cover all TEGRIT's officers, owners, and employees.

(v) Additional Named Insured. All policies, except for the Workers' Compensation policy shall contain additional endorsements naming FCERA and its officers,

employees, agents, and volunteers as additional named Insured's with respect to liabilities arising out of the performance of services hereunder.

(vi) Waiver of Subrogation Rights. Except for Professional Errors and Omissions Liability, TEGRIT shall require the carriers of the above required coverage's to waive all rights of subrogation against FCERA, its BOARD, trustees, officers, and employees.

(vii) Policies Primary and Non-Contributory. All policies required above are to be primary and non-contributory with any insurance or self Insurance programs carried or administered by FCERA.

(viii) Proof of Coverage. TEGRIT shall furnish certificates of Insurance to FCERA evidencing the Insurance coverage, including endorsements, above required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) calendar days written notice to FCERA, and TEGRIT shall maintain such insurance from the time TEGRIT commences performance of services hereunder until the completion of such services. Within thirty (30) calendar days of the commencement of this Agreement TEGRIT shall furnish certified copies of the policies and all endorsements.

(ix) Policies. All policies shall be with admitted insurers licensed to do business in the State of California. Insurance purchased shall be purchased from companies possessing a current A.M. Best, Inc. rating of A FSC VII or better.

15. FORCE MAJEURE.

(a) In the event TEGRIT is unable to comply with any provision of this Agreement due to causes beyond their control relating to acts of God, acts of war, civil disorders, or other similar acts, TEGRIT shall not be held liable to FCERA for such failure to comply.

(b) In the event FCERA is unable to comply with any provision of this Agreement due to causes beyond their control relating to acts of God, acts of war, civil disorders, or other similar acts, FCERA shall not be held liable to TEGRIT for such failure to comply.

16. AUDITS AND INSPECTIONS.

(a) TEGRIT shall at any time during business hours, and as often as FCERA may deem necessary, make available to FCERA for examination all of its records and data with respect to the matters covered by this Agreement.

17. NOTICES AND REPORTS.

(a) Any notices and reports required or desired to be services by either party upon the other shall be addressed to respective parties as set forth below:

FCERA	TEGRIT
1111 H Street	19500 Victor Parkway, Suite 250
Fresno, CA 93721	Livonia, MI 48152
559-457-0681	248-663-2443

18. GOVERNING LAW.

This Agreement will be interpreted under and governed by the laws of the State of California, without regard to its conflict of law principles.

19. DISPUTE RESOLUTION.

(a) Mediation. If TEGRIT does not accept the final decision of the State rendered or deemed rendered under Section 41(c) of the General Provisions, then the dispute will be subject to non-binding mediation by a single mediator in accordance with this Section. Either party may demand mediation by written notice to JAMS (a national mediation services company), including a description of the dispute, with a concurrent copy to the other party. Notices to JAMS will be sent to, and all mediation hearings will be held in, its office in Fresno, California or, if no such office then exists, its office in San Francisco, California. The single mediator will be subject to the mutual approval of the parties and will, to the fullest extent available, be a retired judge and/or trained and expert in the subject area of the asserted claims. In addition to the standard JAMS mediation procedures, the parties will instruct the mediator to apply the evidence to the parties' rights and obligations under this Agreement in a manner consistent with California law, and to report his/her fact findings and legal conclusions to the

parties in writing ("Mediation Report"), with citations to legal authorities where appropriate. The parties will participate in good faith in the mediation and will use their reasonable efforts to reach a resolution within such period. Each party will make available in a timely fashion a representative with authority to resolve the dispute. In the event that the dispute has not been resolved within three (3) months, the mediation will continue if the parties mutually so desire. Except as otherwise set forth herein, the mediation will be conducted in accordance with JAMS' rules and procedures for commercial mediation. If, at the time of the dispute, JAMS does not exist or offer such services, the parties will use another mediation service of comparable stature. The fees and expenses of the mediator and the mediating service will be shared equally by the parties, and each party will be responsible for the cost of its own efforts, personnel, counsel and experts in connection with such mediation.

(b) Venue for any action arising out of or related to this Agreement shall only be in courts located in Fresno County, California and the parties irrevocably consent to such jurisdiction. Notwithstanding the foregoing, either party may seek injunctive, specific performance, or other equitable relief to protect its rights under this Agreement, in any court of competent jurisdiction.

20. MISCELLANEOUS.

(a) Assurance of Compliance with Civil Rights Laws. TEGRIT hereby agrees and represents that it is an equal opportunity employer and has adopted policies to implement the purpose and provisions of the Civil Rights Act of 1964, 42 USC § 2000(e) et seq. to assure that no person is denied employment on the basis of race, creed, color, sex or national origin in connection with its performance of this Agreement.

(b) Affirmative Action. TEGRIT shall take affirmative action to ensure that qualified applicants are employed, and that employees are treated fairly during employment, without regard to their race, color, religion, sex, handicap, ancestry or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(c) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original.

(d) Validity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

(e) Waiver. No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach of said provision or any other provision of this Agreement. No waiver will be enforceable unless it is a written agreement executed by the party granting the waiver, making specific reference to this Agreement and reciting the parties' intention that it constitutes a waiver. Failure of either party to enforce at any time, or from time to time, any provisions of this Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.

(f) Attorney Fees. In the event of any litigation regarding this Agreement, the prevailing party as determined by the appropriate court shall be entitled to recover reasonable attorney's fees.

(g) Changes and Amendments. This Agreement may not be amended except by written agreement executed by both of the parties making specific reference to this Agreement and reciting the parties' intention that it constitutes an amendment.

(h) Agreement Renewal. This Agreement may be renewed for additional time periods provided that both parties sign renewal documents and the total payments during the renewal terms are specified.

(i) Entire Agreement. The RFP, Response, including the additional information submitted by TEGRIT on July 13, 2011, are incorporated into this Agreement by reference. This Agreement and the RFP and Responses, and all other Schedules and attachments constitute the entire agreement between TEGRIT and FCERA with respect to the subject matter hereof and supersedes all previous Agreement negotiations, commitments, writings, advertisements, publications, and understanding of any nature whatsoever unless expressly included in this Agreement.

(j) Export Control. TEGRIT has or shall obtain in a timely manner all necessary or appropriate licenses, permits or other governmental authorizations or approvals; shall indemnify and hold FCERA harmless from, and bear all expense of, complying with all foreign or domestic laws, regulations or requirements pertaining to the importation, exportation,

or use of the technology to be developed or provided herein. TEGRIT shall not directly or indirectly export or re-export (including by transmission) any regulated technology to any country to which such activity is restricted by U.S. regulation or statute, without the prior written consent, if required, of the Bureau of Export Administration of the U.S. Department of Commerce. TEGRIT shall take no action, nor omit to take any required action, which would cause either party to violate the Foreign Corrupt Practices Act of 1977 or the U.S. Export Administration Regulations.

(k) Conflicts of Interest; Gratuities. TEGRIT warrants that no gratuities in the form of entertainment, gifts, or otherwise, in excess of \$100 per gift, were offered or given by TEGRIT, or any agent or representative of TEGRIT, to any officer, fiduciary, advisor, or employee of the Fresno County Employees' Retirement Association with a view toward securing this Agreement or securing favorable treatment with respect to the awarding or the making of any determination with respect to this Agreement. TEGRIT covenants that no such gratuities will be given to any such person with a view towards securing favorable treatment with respect to making a determination with respect to the performance, termination and/or continuation of this Agreement. TEGRIT and its partners and subcontractors shall review and become familiar with the conflicts of interest and reporting provisions applicable to the FCERA, contained in California Government Code sections 1090 to 1097 inclusive, 31528, 82030 and 87100 to 87103 inclusive.

(l) Certification Concerning Financial Contracts or Solicitation. TEGRIT represents and warrants that to the best of its knowledge no employee of TEGRIT or fiduciary whose position in TEGRIT enables such person to influence the award of this Agreement or any competing agreement, and no spouse or economic dependent of such person is or will be employed in any capacity by TEGRIT herein, or does or will have any direct or indirect financial interest in this Agreement. TEGRIT will deliver annually to FCERA, or more frequently if requested, a certificate in the form as provided by FCERA with respect to the interests of persons related to FCERA, as specified from time to time by FCERA.

(m) TEGRIT is required to send to FCERA a service organization control report prepared for the service agency it contracts with to provide server hosting that is to be of general use with a "sys-trust for organizations" seal on it. This report is to be sent to FCERA on an annual basis, or if any significant change occurs in the system in the opinion of FCERA. The service organization control report is to be prepared by a qualifying independent firm in

accordance with the American Institute for Certified Public Accountants, Statements on Standards for Attestation Engagements No. 16, *Reporting on Controls at a Service Organization*. The first such report will be submitted to FCERA within 45 days after execution of this Agreement.

(n) Penalties/Interest/Attorney's Fees. FCERA and TEGRIT will in good faith perform its required obligations hereunder and neither TEGRIT nor FCERA agrees to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by law or otherwise stated herein.

(o) Non-Collusion and Acceptance. TEGRIT, and its partners and subcontractors, attest, subject to the penalties for perjury, that he/she is the contracting party, or that he/she is the representative, agent, member or officer of the contracting party, that he/she has not, nor has any other member, employee, representative, agent or officer of the firm, company, corporation or partnership represented to him, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this contract other than that which appears on the face of the contract.

(p) ITSD.

(i) Adhere To Change Control Process. FCERA contracts with the Fresno County Information Technology Services Department (ITSD) for most of its technology services, including network and e-mail services. As such, TEGRIT must adhere to ITSD's Change Control Process. ITSD employs a procedure to implement updates, upgrades, and version releases to any system that is in production use. This forum allows ITSD to inform staff (Help Desk, Network, Server, Database, Security, and Analysts) of upcoming changes to a production system. TEGRIT must inform ITSD a minimum of 1 week prior to any planned, non-emergency changes so that the Change Control Process may be followed.

(ii) Operating System Updates. The Software must run on an operating system (O/S) that is consistently and currently supported by the operating system vendor. Software under support/maintenance are expected to always be current in regards to the O/S. An outdated or unsupported O/S will not be implemented on the production network. With approval from FCERA, ITSD will apply patches to both the operating system and security

subsystems as releases are available from operating system vendors. The Software is expected to perform in this environment. TEGRIT is expected to keep their software current in order to operate in this environment. These patches include critical O/S updates and security patches. Should the patches cause an issue with the Software, TEGRIT is expected to immediately work on the issue and provide application fixes to ensure it will operate successfully in the patched environment.

(iii) Anti-Virus. ITSD will actively run anti-virus management, where appropriate, on all application servers and PCs. The application is expected to perform adequately while anti-virus management is active.

IN WITNESS WHEREOF, for adequate consideration and intending to be legally bound, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

TEGRIT Technologies, Inc.

Fresno County Employees' Retirement Association

(Authorized Signature)

Franz Criego,

Chair, Board of Retirement

DATE:

Print Name & Title

REVIEWED & RECOMMENDED FOR APPROVAL:

Roberto L. Peña

Mailing Address

Roberto L. Peña

Retirement Administrator

DATE:

DATE: 10/14/11