

**SERVICE AGREEMENT  
CITY OF FRESNO, CALIFORNIA**

THIS AGREEMENT (Agreement) is made and entered into, effective on July 1, 2024, by and between the CITY OF FRESNO, a California municipal corporation (City), and SKIDATA, a Delaware corporation (Service Provider).

**RECITALS**

WHEREAS, City desires to obtain preventative maintenance services for the Parking and Revenue Control System (PARCS) at Fresno Yosemite International Airport (FAT) (Project); and

WHEREAS, Service Provider is engaged in the business of furnishing such services as a manufacturing, supporting, servicing, and maintaining parking technology systems and hereby represents that it desires to and is professionally and legally capable of performing the services called for by this Agreement; and

WHEREAS, Service Provider acknowledges that this Agreement is subject to the requirements of Fresno Municipal Code Section 4-107; and

WHEREAS, this Agreement will be administered for City by its Director of Aviation (Administrator) or designee.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and premises hereinafter contained to be kept and performed by the respective parties, it is mutually agreed as follows:

1. Scope of Services. Service Provider shall perform to the satisfaction of City the services described in **Exhibit A**, including all work incidental to, or necessary to perform, such services even though not specifically described in **Exhibit A**.
2. Term of Agreement and Time for Performance. This Agreement shall be effective from the date first set forth above (Effective Date) and shall continue in full force and effect through June 30, 2028, subject to any earlier termination in accordance with this Agreement. The services of Service Provider as described in **Exhibit A** are to commence upon the Effective Date and shall be completed in a sequence assuring expeditious completion, but in any event, all such services shall be completed prior to expiration of this Agreement and in accordance with any performance schedule set forth in **Exhibit A**.
3. Compensation.

- a. Service Provider's sole compensation for satisfactory performance of all services required or rendered pursuant to this Agreement and shall not exceed \$404,740, paid on the basis of the rates set forth in the schedule of fees and expenses contained in **Exhibit A**. Such fee includes all expenses incurred by Service Provider in performance of the services.
- b. Detailed statements shall be rendered monthly for services performed in the preceding month and will be payable in the normal course of City business within thirty (30) days of the invoice date. City shall not be obligated to reimburse any expense for which it has not received a detailed invoice with applicable copies of representative and identifiable receipts or records substantiating such expense.
- c. The parties may modify this Agreement to increase or decrease the scope of services or provide for the rendition of services not required by this Agreement, which modification shall include an adjustment to Service Provider's compensation. Any change in the scope of services must be made by written amendment to the Agreement signed by an authorized representative for each party. Service Provider shall not be entitled to any additional compensation if services are performed prior to a signed written amendment.

4. Termination, Remedies, and Force Majeure.

- a. This Agreement shall terminate without any liability of City to Service Provider upon the earlier of : (i) Service Provider's filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against Service Provider; (ii) thirty (30) calendar days' prior written notice with or without cause by City to Service Provider; (iii) City's non-appropriation of funds sufficient to meet its obligations hereunder during any City fiscal year of this Agreement, or insufficient funding for the Project; or (iv) expiration of this Agreement.
- b. This Agreement shall terminate without any liability of Service Provider to City upon City (i) defaulting on its payment obligations related to the Scope of Services; (ii) being under investigation for actual or alleged financial, ethical, or illegal acts related to the Scope of Services; or (iii) has otherwise breached its obligations hereunder; Service Provider shall serve thirty (30) calendar days' prior written notice stating one of these causes as the reason for termination to City.
- c. Immediately upon any termination or expiration of this Agreement, Service Provider shall (i) immediately stop all work hereunder; (ii) immediately cause any and all of its subcontractors to cease work; and (iii) return to City any and all unearned payments and all properties and materials in the possession of Service Provider that are owned by City. Subject to the terms

of this Agreement, Service Provider shall be paid compensation for services satisfactorily performed, and equipment or products ordered, prior to the effective date of termination. Service Provider shall not be paid for any work or services performed or costs incurred which reasonably could have been avoided.

- d. In the event of termination due to failure of Service Provider to satisfactorily perform in accordance with the terms of this Agreement, City may withhold an amount that would otherwise be payable as an offset to, but not in excess of, the value of the service as paid by the City. In no event shall any payment by City pursuant to this Agreement constitute a waiver by City of any breach of this Agreement, which may then exist on the part of Service Provider, nor shall such payment impair or prejudice any remedy available to City with respect to the breach.
- e. Upon any breach of this Agreement by Service Provider, Service Provider shall have thirty (30) days from written notice of the claimed breach in which to commence curing said breach, after which City may (i) exercise any right, remedy (in contract, law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law; and/or (ii) proceed by appropriate court action to enforce the terms of the Agreement. If it is determined that City improperly terminated this Agreement for default, such termination shall be deemed a termination for convenience.
- f. Service Provider shall provide City with adequate written assurances of future performance, upon Administrator's request, in the event Service Provider fails to comply with any terms or conditions of this Agreement.
- g. Service Provider shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of Service Provider and without its fault or negligence such as, acts of God or the public enemy, acts of City in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. Service Provider shall notify Administrator in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to Administrator of the cessation of such occurrence.

5. Confidential Information and Ownership Documents.

- a. Any reports, information, or other data prepared or assembled by Service Provider pursuant to this Agreement shall not be made available to any individual or organization by Service Provider without the prior written approval of the Administrator, or by City without prior written approval from

Service Provider, with the exception of California Public Records Act requests. During the term of this Agreement, and thereafter, City or Service Provider shall not, without the prior written consent of the other Party, disclose to anyone any Confidential Information. The term Confidential Information for the purposes of this Agreement shall include all proprietary and confidential information of City or Service Provider, including but not limited to business plans, marketing plans, financial information, materials, compilations, documents, instruments, models, source or object codes and other information disclosed or submitted, orally, in writing, or by any other medium or media. All Confidential Information shall be and remain confidential and proprietary in City.

- b. Any and all writings and documents prepared or provided by Service Provider pursuant to this Agreement are the property of City at the time of preparation and shall be turned over to City upon expiration or termination of the Agreement. Service Provider shall not permit the reproduction or use thereof by any other person except as otherwise expressly provided herein.
  - c. If Service Provider should subcontract all or any portion of the services to be performed under this Agreement, Service Provider shall cause each subcontractor to also comply with the requirements of this Section 5.
  - d. This Section 5 shall survive expiration or termination of this Agreement.
6. Level of Skill. It is further mutually understood and agreed by and between the parties hereto that in as much as Service Provider represents to City that Service Provider and its subcontractors, if any, are skilled in the profession and shall perform in accordance with the standards of said industry necessary to perform the services agreed to be done by it under this Agreement, City relies upon the skill of Service Provider and its subcontractors, if any, to do and perform such services in a skillful manner and Service Provider agrees to thus perform the services and require the same of any subcontractors. Therefore, any acceptance of such services by City shall not operate as a release of Service Provider or any subcontractors from said industry and professional standards.
7. Indemnification. To the furthest extent allowed by law, Service Provider shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, Service Provider or any other person, and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees, litigation expenses and cost to enforce this agreement), arising or alleged to have arisen directly out of negligent performance of this Agreement. Service Provider's obligations under the preceding sentence shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or

caused by the willful misconduct, of City or any of its officers, officials, employees, agents, or volunteers.

Service Provider will have no indemnification obligations where:

- a. Solution was in accordance with City's or City's end-user's sole design or specifications,
- b. City or City's end-user alters the Solution,
- c. City or City's end- user combines the Solution with materials not supplied or approved by Service Provider and such claim would not have occurred absent such combination, or
- d. City or City's end-user continues to use the Solution after confirmed receipt of written notice from Service Provider to stop using the Solution.

In no case shall Service Provider be liable for any consequential, incidental, indirect, special, or exemplary damages (including, without limitation, lost profits, business, or goodwill) suffered or incurred by City.

A Party's indemnification obligations are conditioned upon the Indemnitee (a) notifying the indemnifying party ("Indemnitor") promptly of any threatened or pending Claim, provided that failure to provide such notice will only relieve the Indemnitor of its indemnification obligations to the extent its ability to defend or settle an applicable Claim is materially prejudiced by such failure to provide notice; (b) giving the Indemnitor, at the Indemnitor's expense, reasonable assistance and information requested by the Indemnitor in connection with the defense and/or settlement of the Claim; and (c) tendering to the Indemnitor sole control over the defense and settlement of the Claim. The Indemnitee's counsel or their appointed of-counsel of choice will have the right to participate in the defense of the Claim at the Indemnitee's own expense without set-off, reimbursement, or payment whatsoever from the Indemnitor. The Indemnitor will not, without the prior written consent of the Indemnitee, make any admission or prejudicial statement, settle, compromise, or consent to the entry of any judgment with respect to any pending or threatened Claim.

## 8. Insurance.

- a. Throughout the life of this Agreement, the Service Provider shall pay for and maintain in full force and effect all insurance as required in Exhibit B, which is incorporated into and part of this Agreement, with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less than "A-VII" in the Best's Insurance Rating Guide, or (ii) as may be authorized in writing by the City's Risk Manager or designee at any time and in its sole discretion. The

required policies of insurance as stated in Exhibit B shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to the City, its officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.

- b. If at any time during the life of the Agreement or any extension, the Service Provider or any of its subcontractors/sub-Service Providers fail to maintain any required insurance, all services and work under this Agreement shall be discontinued immediately, and all payments due, or that become due, to the Service Provider shall be withheld until insurance is in compliance with the requirements. Any failure to maintain the required insurance shall be sufficient cause for the City to terminate this Agreement. No action taken by the City pursuant to this section shall in any way relieve the Service Provider of its responsibilities under this Agreement. The phrase “fail to maintain any required insurance” shall include, without limitation, notification received by the City that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.
- c. The fact that insurance is obtained by the Service Provider shall not be deemed to release or diminish the liability of the Service Provider, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify the City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Service Provider. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of the Service Provider, its principals, officers, agents, employees, persons under the supervision of the Service Provider, vendors, suppliers, invitees, Service Providers, sub-Service Providers, subcontractors, or anyone employed directly or indirectly by any of them.

9. Conflict of Interest and Non-Solicitation.

- a. Prior to City’s execution of this Agreement, Service Provider shall complete a City of Fresno conflict of interest disclosure statement in the form as set forth in **Exhibit C**. During the term of this Agreement, Service Provider shall have the obligation and duty to immediately notify City in writing of any change to the information provided by Service Provider in such statement.
- b. Service Provider shall comply, and require its subcontractors to comply, with all applicable (i) professional canons and requirements governing avoidance of impermissible client conflicts; and (ii) federal, state, and local conflict of interest laws and regulations including, without limitation, California Government Code Section 1090 et. seq., the California Political

Reform Act (California Government Code Section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et.seq.). At any time, upon written request of City, Service Provider shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, Service Provider and the respective subcontractor(s) are in full compliance with all laws and regulations. Service Provider shall take, and require its subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, Service Provider shall immediately notify City of these facts in writing.

- c. Service Provider's duties and services under this Agreement shall not include preparing or assisting the City with any portion of the City's preparation of a request for proposals, request for qualifications, security certification or attestation, or any other solicitation regarding a subsequent or additional contract with the City. The City entering this Agreement shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of this Project. Consultant's participation in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or specifications. Consultant shall cooperate with the City to ensure that all bidders for a subsequent contract on any subsequent phase of this Project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by Consultant pursuant to this Agreement.
- d. In performing the work or services to be provided hereunder, Service Provider shall not employ or retain the services of any person while such person either is employed by City or is a member of any City council, commission, board, committee, or similar City body. This requirement maybe waived in writing by the City Manager, if no actual or potential conflict is involved.
- e. Service Provider represents and warrants that it has not paid or agreed to pay any compensation, contingent or otherwise, direct or indirect, to solicit, or procure this Agreement or any rights/benefits hereunder.
- f. Service Provider and any of its subcontractors shall have no interest, director indirect, in any other contract with a third party in connection with this Project unless such interest is in accordance with all applicable law and fully disclosed to and approved by the City Manager, in advance and in writing. Notwithstanding any approval given by the City Manager under this provision, Service Provider shall remain responsible for complying with Section 9(a), above.

g. If Service Provider should subcontract all or any portion of the work to be performed or services to be provided under this Agreement, Service Provider shall include the provisions of this Section 9 in each subcontract and require its subcontractors to comply therewith.

h. This Section 9 shall survive expiration or termination of this Agreement.

10. Recycling Program. In the event Service Provider maintains an office or operates a facility(ies), or is required herein to maintain or operate same, within the incorporated limits of the City of Fresno, Service Provider at its sole cost and expense shall:

a. Immediately establish and maintain a viable and ongoing recycling program, approved by City's Solid Waste Management Division, for each office and facility. Literature describing City recycling programs is available from City's Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.

b. Immediately contact City's Solid Waste Management Division at (559) 621-1452 and schedule a free waste audit, and cooperate with such Division in their conduct of the audit for each office and facility.

c. Cooperate with and demonstrate to the satisfaction of City's Solid Waste Management Division the establishment of the recycling program in paragraph (a) above and the ongoing maintenance thereof.

11. General Terms.

a. Except as otherwise provided by law, all notices expressly required of City within the body of this Agreement, and not otherwise specifically provided for, shall be effective only if signed by the Administrator or designee.

b. Records of Service Provider's expenses pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to City or its authorized representatives upon request during regular business hours throughout the life of this Agreement and for a period of three years after final payment or, if longer, for any period required by law. In addition, all books, documents, papers, and records of Service Provider directly pertaining to the Project shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. If any litigation, claim, negotiations, audit or other action is commenced before the expiration of said time period, all records shall be retained and made available to City until such action is resolved, or until the end of said time period whichever shall later occur. If Service Provider should subcontract all or any portion of the services to be performed under this Agreement, Service Provider shall cause each subcontractor to also comply with the



requirements of this paragraph. This Section 11(b) shall survive expiration or termination of this Agreement.

- c. Prior to execution of this Agreement by City, Service Provider shall have provided evidence to City that Service Provider is licensed to perform the services called for by this Agreement (or that no license is required). If Service Provider should subcontract all or any portion of the work or services to be performed under this Agreement, Service Provider shall require each subcontractor to provide evidence to City that subcontractor is licensed to perform the services called for by this Agreement (or that no license is required) before beginning work.

12. Nondiscrimination. To the extent required by controlling federal, state and local law, Service Provider shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Subject to the foregoing and during the performance of this Agreement, Service Provider agrees as follows:

- a. Service Provider will comply with all applicable laws and regulations providing that no person shall, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.
- b. Service Provider will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Service Provider shall ensure that applicants are employed, and the employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Such requirement shall apply to Service Provider's employment practices including, 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. Service Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this

nondiscrimination clause.

- c. Service Provider will, in all solicitations or advertisements for employees placed by or on behalf of Service Provider in pursuit hereof, state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.
- d. Service Provider will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising such labor union or workers' representatives of Service Provider's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. If Service Provider should subcontract all or any portion of the services to be performed under this Agreement, Service Provider shall cause each subcontractor to also comply with the requirements of this Section 12.

### 13. Independent Contractor.

- a. In the furnishing of the services provided for herein, Service Provider is acting solely as an independent contractor. Neither Service Provider, nor any of its officers, agents, or employees shall be deemed an officer, agent, employee, joint venturer, partner, or associate of City for any purpose. City shall have no right to control or supervise or direct the manner or method by which Service Provider shall perform its work and functions. However, City shall retain the right to administer this Agreement so as to verify that Service Provider is performing its obligations in accordance with the terms and conditions thereof.
- b. This Agreement does not evidence a partnership or joint venture between Service Provider and City. Service Provider shall have no authority to bind City absent City's express written consent. Except to the extent otherwise provided in this Agreement, Service Provider shall bear its own costs and expenses in pursuit thereof.
- c. Because of its status as an independent contractor, Service Provider and its officers, agents, and employees shall have absolutely no right to employment rights and benefits available to City employees. Service Provider shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare and retirement benefits. In addition, together with its other obligations under this Agreement, Service

Provider shall be solely responsible, indemnify, defend and save City harmless from all matters relating to employment and tax withholding for and payment of Service Provider's employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes and payment; and (ii) any claim of right or interest in City employment benefits, entitlements, programs and/or funds offered employees of City whether arising by reason of any common law, de facto, leased, or co- employee rights or other theory. It is acknowledged that during the term of this Agreement, Service Provider may be providing services to others unrelated to City or to this Agreement.

14. Notices. Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.
15. Binding. Subject to Section 16, below, once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees and representatives.
16. Assignment.
  - a. This Agreement is personal to Service Provider and there shall be no assignment by Service Provider of its rights or obligations under this Agreement without the prior written approval of the City Manager or designee. Any attempted assignment by Service Provider, its successors or assigns, shall be null and void unless approved in writing by the City Manager or designee.
  - b. Service Provider hereby agrees not to assign the payment of any monies due Service Provider from City under the terms of this Agreement to any other individual(s), corporation(s) or entity(ies). City retains the right to pay any and all monies due Service Provider directly to Service Provider.
17. Compliance With Law. In providing the services required under this Agreement, each Party shall at all times comply with all applicable laws of the United States, the State of California and City, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in

force and as they may be enacted, issued, or amended during the term of this Agreement.

18. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.
19. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.
20. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.
21. Severability. The provisions of this Agreement are severable. The invalidity, or unenforceability of any one provision in this Agreement shall not affect the other provisions.
22. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.
23. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.
24. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.
25. Precedence of Documents. In the event of any conflict between the body of this Agreement and any exhibit or attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the exhibit or attachment. Furthermore, any terms or conditions contained within any exhibit or attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of

this Agreement, shall be null and void.

26. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.
27. No Third Party Beneficiaries. The rights, interests, duties, and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.
28. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both City and Service Provider.
29. The City Manager, or designee, is hereby authorized and directed to execute and implement this Agreement. The previous sentence is not intended to delegate any authority to the City Manager to administer the Agreement, any delegation of authority must be expressly included in the Agreement.

**[SIGNATURES FOLLOW ON THE NEXT PAGE]**

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO,  
A California municipal corporation

By: \_\_\_\_\_  
Henry Thompson, A.A.E., IAP  
Director of Aviation

APPROVED AS TO FORM:  
ANDREW JANZ

City Attorney  
Signed by:  
By: Brandon Collet 8/7/2024  
1CFC5444CAA64DB...  
Brandon M. Collet Date  
Assistant City Attorney

ATTEST:  
TODD STERMER, CMC  
City Clerk

By: \_\_\_\_\_  
Deputy Date

Addresses:  
CITY:  
City of Fresno Airports Department  
Attn: Properties Division  
4995 E. Clinton Way  
Fresno, CA 93727  
Phone: (559) 621-4500  
E-mail: FYIProperties@fresno.gov

SKIDATA,  
A Delaware corporation

DocuSigned by:  
By: David Luken  
195F85F230114B2...  
Name: David Luken

Title: CEO SKIDATA  
(If corporation or LLC., Board Chair,  
Pres. Or Vice Pres.)

DocuSigned by:  
By: Laurent Kaeslin  
7C09CDE9905A4FA...  
Name: Laurent Kaeslin

Title: Director  
(If corporation or LLC., CFO, Treasurer,  
Secretary, or Assistant Secretary)

SERVICE PROVIDER:  
SKIDATA, Inc.  
Attn: David Luken, CEO  
5090 N 40<sup>th</sup> St., Ste. 450  
Phoenix, AZ 85018  
Phone: 1-833-754-3282  
Email: David.Luken@SKIDATA.com

- Attachments:
- 1. Exhibit A – Scope of Services
  - 2. Exhibit B – Insurance Requirements
  - 3. Exhibit C – Conflict of Interest Disclosure Form

**EXHIBIT A**

**SCOPE OF SERVICES**  
**Service Agreement between City of Fresno**  
**and SKIDATA, INC.**  
FAT PARCS Preventative Maintenance

See attached scope:



# SKIDATA Expert Services

## SKIDATA.Care Pack

**Business Segment:** NorCal | **Country:** USA | **Sales Manager:** Nathan Keil

The purpose of this maintenance service agreement ("Agreement") is to state the terms and conditions under which SKIDATA, INC. ("SKIDATA") will furnish maintenance services, on certain equipment located at Fresno Yosemite Int'l Airport, California, United States.

CUSTOMER:	
<b>Company:</b>	City of Fresno
<b>Contact Person:</b>	Melissa Garza-Perry
<b>Department:</b>	Airport Properties Manager
<b>E-mail:</b>	Melissa.Garza-Perry@Fresno.Gov
<b>Street Address:</b>	4995 E. Clinton Way
<b>Zip/place:</b>	Fresno, CA 93727
<b>Phone:</b>	(559) 621-4549

Site Details (place of operation):	
<b>Site Name:</b>	Fresno Yosemite International Airport (FAT)
<b>Account Number:</b>	sna10426
<b>Facility ID:</b>	F014494
<b>Parking.Logic ID:</b>	1750793

SKIDATA.CARE PACK MODULES					
SERVICE NAME		BASIC	EXTENDED	PREMIUM	PREMIUM PLUS
REACTIVE	Coverage period	MON to FRI, 8AM – 5PM	MON to SUN, 8AM – 5PM	MON to SUN, 24 Hr.	MON to SUN, 24 Hr.
	Time to support remote [Hr.] [Critical, Major, Moderate, Minor]	8/24/48/48	4/8/24/24	2/4/8/8	1/4/8/8
	Time to support onsite [Hr.] [Critical, Major, Moderate, Minor]	24/72/72/72	24/48/72/72	8/24/24/48	4/8/24/24
	Service labor	Not Included	Incidents	Incidents + Requests	Incidents + Requests + Third Party
PREVENTIVE	Hardware Maintenance	Not Included	Quarterly	Quarterly	Quarterly
	Training	Not Included	Annual 4 Hour	Annual - Full day	Bi-Annual - Full day
	Performance Review	Call History Report	Quarterly	Monthly	Monthly + TCO Plan
PARTS	Spare Parts, excl. wear and tear	Not Included	Not Included	Not Included	Not Included
ANNUAL MODULE PRICE (4+ Year)		\$ 39,080.00	\$ 65,132.00	\$ 101,185.00	\$ 127,238.00
Annual Module Price (Less Than 4 Year)		\$ 45,976.00	\$ 76,626.00	\$ 117,277.00	\$ 147,928.00

ADDITIONAL OPTIONS	
SERVICE NAME	ANNUAL OPTION PRICE
Spare Parts.Care	\$ 35,000.00





**YOUR SKIDATA.CARE PACK**

SELECTED SKIDATA.CARE MODULE: **PREMIUM**  
SELECTED SKIDATA.CARE ADDITIONAL OPTIONS: **N/A**  
Spare Parts.Care: **NO**  
ANNUAL PRICE (MODULE PRICE + OPTIONS): **\$101,185.00**

\*SKIDATA reserves the right to update this pricing if there is a lapse in coverage of the maintenance agreement.  
\*SKIDATA reserves the right to adjust rate on an annual basis in accordance with CPI not to exceed 3% annually.

**GENERAL AGREEMENTS**

**Contract commencing:** **July 1, 2024**  
**Contract terminating:** **June 30, 2028**  
**Reduced Labor Rate as listed Appendix C**  
**Contract payment:** ANNUAL IN ADVANCE \*Payments Terms: Net 30

The accompanying appendices are an integral part of this contract.

**Appendix**

- Appendix A: Service Description
- Appendix B: Site Details
- Appendix C: Service Price List
- Appendix D: Service Conditions

# SKIDATA Expert Services

## SKIDATA.Care Pack: Appendix A Service Description

### SERVICE COVERAGE PERIOD

SKIDATA technicians are available if you need them. Within the agreed coverage period, the customer can contact SKIDATA via telephone, e-mail, or customer portal to get functional support.

- Each support case will be registered and handled according to standardized processes.
- Per support case via Help Desk, a support time of 15 minutes is included.
- Additional support will be charged according to the 'SKIDATA Expert Services Price List' or is covered by the service agreement.
- Within the defined coverage period of the selected option, no supplements (weekend- or nightwork) will be charged.
- Within the defined coverage period of the selected module the agreed 'time to support remote' and the 'time to support on-site' values are valid.
- The Help Desk may only be called by customer employees who have been trained to use SKIDATA systems.

### TIME TO SUPPORT ONSITE & TIME TO SUPPORT REMOTE

Within the agreed coverage period, each incident will be prioritized and handled according to the agreed classification. Incidents are classified into four categories. These categories are explained below. The values within the overview grid represent hours.

Example: 8/24/48/48.

The first figure is valid for the classification level 'Critical', the second for 'Major', the third for 'Moderate' and the fourth for 'Minor'.

#### Explanation of incident classification

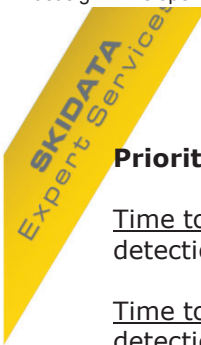
**Critical:** the contractually agreed use is impossible or unreasonably restricted and the error materially affects the Customer's business processes.

**Major:** the contractually agreed use is very restricted and the error materially affects the Customer's business processes, however, the Customer is still able to continue to work in a restricted manner.

**Moderate:** the contractually agreed use is slightly restricted and the error slightly affects the Customer's business processes, however, the Customer is still able to continue to work in a slightly restricted manner.

**Minor:** Incidents which do not fall into any other category.

The classification of incidents is done by SKIDATA in agreement with the customer.



**Prioritization times**

Time to Support - Remote: Time between the notification of an incident by the Customer or the detection of an incident by SKIDATA and the time until SKIDATA starts troubleshooting remote.

Time to Support - On-Site: Time between the notification of an incident by the Customer or the detection of an incident by SKIDATA and the arrival at the site where the incident is detected, if it cannot be fixed by means of remote access or telephone support.

The figure below shows the prioritization times:

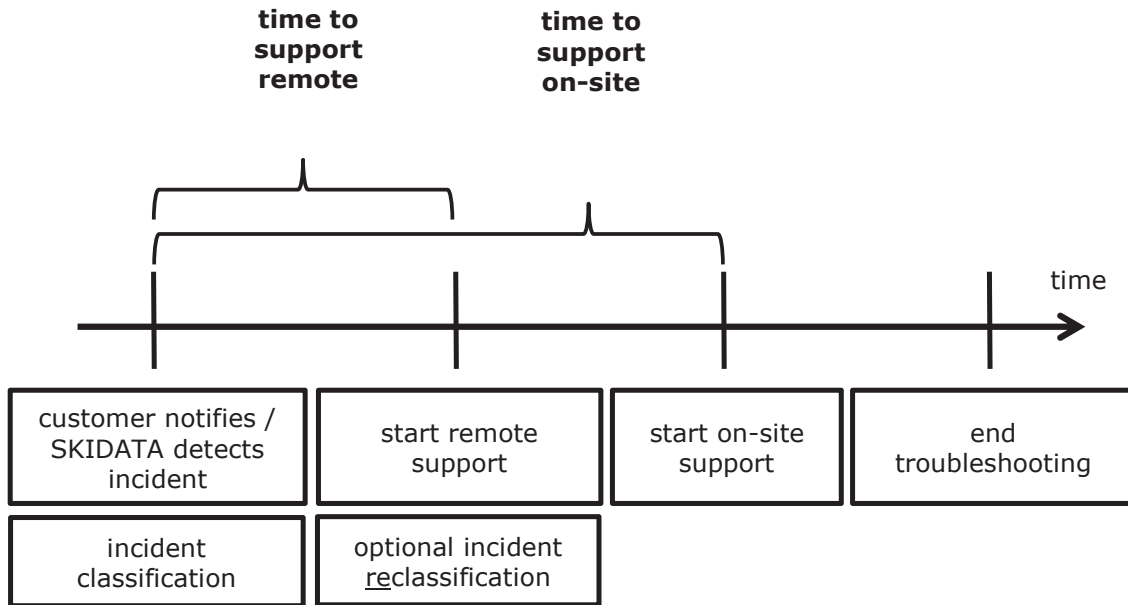


Figure: visualization of prioritization times

**SERVICE LABOR**

Within the agreed coverage period, different types of service labor activities can be included. Service labor activities are divided into three types which are described below.

SKIDATA is committed to the high-quality training and know-how of its service personnel. Each service technician is obliged to complete a three-level training program with a final examination.

Incidents

Incident management is performed by a logical, systematic search for the cause of a problem so that the device or process is ready for operation again after the solution.

Service requests

Service requests are plannable activities to change the behavior and functionality of the access system.

### Service on third party equipment

Third party equipment is hardware and software not provided by SKIDATA but related to the functionality of the access system. Third party equipment covered by the agreement must be listed within appendix B.

To provide effective troubleshooting, SKIDATA's service is organized in local and central service teams. All service engineers are connected with central technical (CTS) support at SKIDATA headquarters and with the world wide acting R&D teams. CTS is based in Europe and in Texas.

Troubleshooting is generally done remotely. If remote troubleshooting is not possible, SKIDATA reserves the right to carry out a service visit on-site to handle the incident.

Excluded labor activities:

- Troubleshooting of issues caused by misconduct of customer employee or operators.
- Troubleshooting of issues caused by force majeure.

Required spare parts will be invoiced if the option 'Spare Parts.Care' is not part of this agreement.

## **HARDWARE MAINTENANCE**

Hardware maintenance is preventive maintenance and includes the inspection, cleaning, and adjustment of hardware components as well as the execution of test runs necessary for proper operation. The costs of labor and travel are included.

Hardware maintenance is classified into Level 1 and Level 2 activities:

Level 1 activities: Cleaning and visual inspection.

Level 2 activities: Maintenance according to inspection plan, replacement of wear parts if necessary. A detailed list of activities is available on request.

Required spare parts will be invoiced if the option 'Spare Parts.Care' is not part of this agreement.

## **TRAINING**

Use your SKIDATA system efficiently! The better you know your SKIDATA system, the more efficiently you can use it! For this reason, we pass on our knowledge to you in structured training sessions at our training locations.

Training is available in three different types which are described below:

### Annual 4 Hr.

The service agreement includes four hours of training per year.

### Annual Full-Day:

The service agreement includes one full day of training per year.  
A full day means from 08 am to 05 pm.

### Bi-Annual Full-Day:

The service agreement includes two full days of training per year.  
A full day means from 08 am to 05 pm.

All training will be performed at a SKIDATA training location. The training program will be defined upfront according to the needs of the customer. If training is part of the service agreement attendance is required by the primary customer team. Otherwise, the agreed reaction times cannot be guaranteed.

## PERFORMANCE REVIEW

SKIDATA offers different levels of performance reviews to analyze the performance of SKIDATA's service delivery. Within the Premium Plus module, a total cost of ownership plan is also included. The following performance review types are available:

### Call History Export:

On request a summary of logged service calls will be provided. The summary is an export of SKIDATA's service management application.

### Quarterly Report:

SKIDATA provides proactive a summary of logged service calls per quarter. The summary is an export of SKIDATA's service management application. It includes the fulfillment level of the agreed SLAs and shows basic performance statistics.

### Monthly Report:

SKIDATA provides proactive a summary of logged service calls per month. The summary is an export of SKIDATA's service management application. It includes the fulfillment level of the agreed SLAs and shows basic performance statistics.

### Monthly Report Including a TCO Plan:

In addition to the monthly performance report as described above, a TCO (total cost of ownership) plan will be provided by SKIDATA. This plan shows recommended investments in the future to keep the system up to the latest technology standard. A TCO plan considers the risk of downtime and indicates the required budget to maintain the access solution.

## SPARE PARTS.CARE

The option 'SPARE PARTS.CARE' extends the service agreement with the supply and installation of spare parts.

Spare Parts repaired by SKIDATA are refurbished and fully functional. Excluded from the scope of delivery are spare parts which have been damaged by improper use, vandalism, or weather conditions.

Wear and tear parts are excluded from the scope of delivery:

- Thermal Printer Head
- Sheer Bolts
- Barrier Arms
- Short Term Tickets
- Backup Batteries for UPS



# SKIDATA Expert Services

## SKIDATA Care Pack: Appendix B

### Installed Products:

**Product:**

Facility Code: 1751684  
 Facility ID: F014738  
 Current Version: 12  
 (4) lanes = ( 2 ) entry, ( 2 ) exit, ( 1 ) Offline EN, ( 1 ) Offline EX  
 ( 5 ) PC's = ( 1 ) DAZ, ( 1 ) System Management Server, ( 2 ) POF credit only, ( 1 ) Workstation,  
 (1) Switches SG300 28  
 Small Server IoT – Installed in 2019

# SKIDATA Expert Services

## SKIDATA Care Pack: Appendix C

### Service Price List:

Pricebook	Customer	Hour rate HW (08:00 – 17:00)	Hour rate SW (08:00 – 17:00)	Overtime	Weekend and Holiday
US – List Price 1	W/ Contract	195 \$	205 \$	+100%	125%
US – List Price 2	W/O Contract	235 \$	275 \$	+100%	125%

Dispatch Charge: \$ 120.00

# SKIDATA Expert Services

## SKIDATA Care Pack: Appendix D

### Service Conditions General - USA:

The following Service Conditions govern Principal's use of SKIDATA Expert Services as described in the SKIDATA Care Pack Offer ("the Offer") and service description.

#### **1. Subject Matter of the Contract**

**1.1.** The Customer uses products (hardware and/or software) made by SKIDATA ("SKIDATA Products") which the Customer acquires and/or acquired in accordance with separate provisions.

SKIDATA renders services for such products in the scope determined by the Customer and in accordance with these Service Conditions and other provisions contained in this Contract.

**1.2.** Customer can choose between various services which are divided in modules ("Modules") by checking the appropriate box in the Offer. This decision of Customer is legally valid and binding. SKIDATA pledge to perform the services as described in the Offer and its appendices. This also applies to orders via the SKIDATA Service Portal.

**1.3.** SKIDATA shall render the services covered by these Service Conditions only for the SKIDATA products stated in this Contract. If agreed also within the service contract, also for third-party products. If the Principal purchases other products from SKIDATA, such other products shall only be included in the services to the extent such inclusion is expressly agreed upon and included in the contract.

**1.4.** In case of any conflicts between individual parts of this Contract such as offer, annexes etc. concerning the selection of the individual options, their extent, and the required specifications of these Service Conditions, then an offer, individually prepared by SKIDATA and which particularly contains the prices to be paid for the services, shall have priority over any other agreements and specifications.

**1.5.** Before concluding a service contract for Customer's system, which contains components not covered by warranty, SKIDATA reserves the right to conduct a fee for the repair of the system.

#### **2. Place of Performance of Services**

**2.1.** SKIDATA shall render its services as required and in accordance with these Service Conditions on site or remote. However, this shall in no event affect the Place of Performance stipulated in the General Conditions.

**2.2.** Services on site shall be rendered at the address stated in this Contract (place of operation). In case of any changes of the place of operation without SKIDATA's express consent, SKIDATA shall be released from the performance obligation, however, the Customer's obligation to pay shall continue to exist.

**2.3.** In case of any change of the place of operation, SKIDATA reserves the right to adjust the service fee to a reasonable extent, taking into account, among other things, the new travel distances. Alternatively, SKIDATA shall be entitled to terminate this Service Contract with immediate effect.

#### **3. Prices**

**3.1.** The Customer shall pay SKIDATA a non-recurring or a recurring service fee as agreed-upon for the services to be rendered in accordance with these Service Conditions. The price is quoted in the Offer and invoiced in advance in the first quarter of the contractual year. If Customer accepts direct debit by checking the appropriate box in the offer, the price is invoiced in advance in the first quarter of the contractual year by direct debit. In case of doubt an annual service fee payable for one year in advance shall be assumed. The amount and the composition of the service fee result from the contractual agreements, especially from the individual Offer prepared by SKIDATA.

**3.2.** SKIDATA shall be entitled to reasonably adjust the service fee once a year. The service fee is subject to a value guarantee in accordance with the consumer price index or any other comparable index taking its place and the month in which the applicable Agreement was

concluded shall be the starting basis. If an alternative index is cited in the offer, this index shall prevail.

**3.3.** Any rights of set-off shall be excluded, and the service fee will not be reimbursed in part or in full in case of termination.

**3.4.** If the Customer acquires additional products from SKIDATA to be included in the services, these products shall be included in the service fee on a pro rata basis, and SKIDATA will invoice the difference immediately after the purchase of the products from SKIDATA.

**3.5.** If the Customer wishes to obtain additional services exceeding the scope of the agreed services or services which are to be invoiced separately in accordance with these Service Conditions, these additional services shall not be covered by the service fee, and SKIDATA will invoice these additional services on a time and material basis in accordance with the applicable prices.

#### **4. Principal's Obligation to Cooperate**

**4.1.** The Customer undertakes:

**a)** to use its best efforts to support SKIDATA and fulfil the technical requirements necessary to enable SKIDATA to render the requested services; in particular by giving SKIDATA any necessary and requested information and enabling SKIDATA to access any networks, data bases, programs, devices and services by third parties to the extent they could be useful for the correction of errors;

**b)** to make available - to the extent necessary - employees who can be of assistance for the services or whom SKIDATA expressly requests. Such employees are to support SKIDATA accordingly;

**c)** to establish contact with third parties to the extent necessary for the rendering of the services or to the extent as expressly requested by SKIDATA and to affect the necessary communication or support SKIDATA in making the necessary communication;

**d)** to duly and regularly effect the data backups to the extent possible and designated; this obligation refers to a general data backup in the extent usual in the industry as well as to a specific backup of data located on computers or servers before services are rendered, for example before updates are performed;

**e)** subject to these Service Conditions, to effect maintenance, service, and cleaning of the equipment including the exchange of spare parts, wear and tear parts, and mechanical components; such works are to be effected in accordance with the specifications given by SKIDATA as well as in accordance with training information, manuals, maintenance instructions or similar information, if any, on a regular basis as a precaution measure;

**f)** to establish and maintain at its own expense the system requirements necessary for the services and/or the required working environment. To the extent the Customer refuses to accept services rendered by SKIDATA for software or hardware, the Customer loses any warranty claims in relation to the respective SKIDATA products;

**g)** to provide keys for equipment, use of power grid, toilets and in general a safe working environment to SKIDATA.

**4.2.** These obligations to cooperate shall apply in addition to the Customer's obligations to cooperate to be fulfilled in connection with the individual services, if any.

#### **5. Term of Contract**

**5.1.** Unless otherwise agreed upon the present Contract shall be concluded for a period of one year. It shall be renewed by additional periods of one year each unless either party terminates the Contract in writing observing a notice period of 60 days as of the end of the contractual year.

**5.2.** In case of any material breach of Contract by either party, the respective other party must request the defaulting party in writing to remedy the breach within a period of 30 (thirty) days, whereby the breach of Contract must be specifically described, and if the defaulting party fails to remedy such material breach, the other party shall be entitled to terminate the present Contract with immediate effect in writing (including fax or email).

**5.3.** If SKIDATA terminates the Contract due to a breach of contract by the Customer or due to a change of the place of operation, SKIDATA shall not be obliged to repay to the Customer any payments already made or to grant the Customer a discount concerning any



payments due.

**5.4.** Upon termination of this Contract, the Customer shall not be entitled to obtain services of any kind.

## **6. Change of Control of the Customer**

**6.1.** In case of any material change of the distribution of ownership and/or of control of the Customer, SKIDATA shall be entitled to terminate this contract upon 3 (three) months' notice, such termination to be declared within 3 months from the day it receives knowledge of such change. In any case, such material change shall be fulfilled if at least 50 percent of the ownership, of the shares or of the rights to vote are transferred to one or more new or existent owners, shareholders, or beneficiaries. In any case, the whole or partial transmission of this contract to a third party requires SKIDATA's consent.

**6.2.** In case SKIDATA declares termination of the contract according to paragraph 6.1, paragraphs 5.3 and 5.4 shall apply correspondingly. Otherwise, the contract and its obligations will demise upon mutual agreement with the new owner but only when inventory control is performed by SKIDATA. The new owner shall bear the costs of inventory control.

## **7. SPECIAL CONDITIONS: OWNERSHIP**

**7.1.** If Customer or its employees or SKIDATA or its employees exchange spare parts or other parts in accordance with these Service Conditions, the removed parts shall become SKIDATA's property upon removal. The newly built-in parts shall become the property of the owner of the equipment into which they are built as of the time of payment.

## **8. SPECIAL CONDITIONS: LIABILITY**

**8.1.** Subject to attributable personal injury and any damage in accordance with the Product Liability Act or the Product Protection Act for whatever legal reason, SKIDATA shall only be liable for any damage caused by SKIDATA's gross negligence or willful intent up to the amount of one annual service fee, however, not more than \$ 500.000 (in words: five hundred thousand dollars).

**8.2.** SKIDATA shall not be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, strikes or labor disputes, embargoes, government orders or any other force majeure event including but not limited to pandemic or world-wide health emergency.

**8.3.** Except where such limitations would be prohibited, in no event shall SKIDATA Parties be liable for any indirect, special, punitive, exemplary, incidental and/or consequential damages of any kind (including, but not limited to, lost profits) whether based in contract, tort, strict liability or otherwise which arises out of or is in any way connected with this Agreement.

## **9. Individual Services**

**9.1.** Individual services are services not covered by the services detailed in these Service Conditions and which are individually agreed upon between SKIDATA and the Principal in this Contract or otherwise in writing.

**9.2.** SKIDATA's General Conditions shall be applicable in any case, the Service Conditions contained herein must be applied analogously.

## **10. Data Protection**

**10.1.** SKIDATA shall be entitled to collect, process, forward and use the Customer's personal data to the extent necessary for the establishment and fulfilment of the Contract as well as for invoicing and Customer service purposes. SKIDATA shall also be entitled to transfer such data to affiliated companies, or third parties commissioned to process data for SKIDATA to the extent such transfer is necessary to enable SKIDATA to perform.

**10.2.** When using SKIDATA's deliveries and services, the Customer shall be obliged to adhere to all applicable legal provisions for data protection. The Customer shall be solely responsible for any notices to be given to public authorities (e.g. data protection committee).

**10.3.** These obligations shall remain valid for a period of 5 (five) years after termination of the contractual relationship between SKIDATA and the Customer unless mandatory legal

provisions require a longer or an indefinite period.

**10.4.** These provisions shall not affect any Non-Disclosure Agreement between SKIDATA and the Customer.

**10.5.** The customer is informed and agrees that technical system data (e.g. topology, hardware and software version numbers, device counters, software status, time of installation, serial numbers) are recorded and transmitted to SKIDATA AG by the system to be able to develop preventive maintenance concepts to increase quality and efficiency of customer support.

### **11. Coverage Period**

**11.1.** The coverage period defines the availability of the local hotline service.

**11.2.** The hotline service established by SKIDATA is only available at the telephone number, customer portal and email address as stated in this Contract. SKIDATA reserves the right, at its discretion, to operate the hotline service itself or have it operated by a third party. Should the Customer contact SKIDATA via other contact means than the ones stated (telephone number, customer portal, and email address), then SKIDATA shall not be obliged to fulfil the obligations stated in this agreement. No reaction times shall commence upon such contact. SKIDATA only pledges availability as defined in the service descriptions and according to coverage period.

**11.3.** The hotline must not be used for training purposes.

**11.4.** Only employees of the Customer trained on the use of SKIDATA Systems shall be allowed to use the hotline.

**11.5.** Upon SKIDATA's request, the Customer and/or its employees must state detailed contact data to ensure that SKIDATA can reach the Customer respectively its employees if this is necessary for troubleshooting. However, the Customer shall not be entitled to demand a return call from SKIDATA.

**11.6.** Provided support services as part of the hotline service will be charged according the "Expert Service price list" unless these costs for troubleshooting are included in the annual flat rate as defined within this Contract.

### **12. Time to support remote and time to support onsite**

**12.1.** The time to support and the time to support onsite defines times for reactive unplanned services (troubleshooting).

#### **12.2. Prioritization Times and Error Classes**

**12.2.1.** SKIDATA only pledges to observe periods as defined in the service descriptions.

**12.2.2.** For the purposes of these provisions:

**a)** Time to support remote shall be the time between the detection of an error by the Customer or SKIDATA (also remote services) and the time when SKIDATA starts troubleshooting. The Customer should recommend an error classification, Customer acknowledge and agree that the actual classification is made by SKIDATA.

The time of detection of an error shall be deemed to be the time at which the Customer reports such error via the hotline in reasonable detail and in a comprehensible manner as is necessary for Troubleshooting. The reaction time only runs during the committed service times according to the agreed coverage period.

**b)** Solution time (troubleshooting time) shall be the time between the start of the troubleshooting and the completion of the Troubleshooting work by SKIDATA. SKIDATA shall confirm the completion of the Troubleshooting work. The end of troubleshooting is achieved, when a solution is found, the problem is fixed, or the workaround is defined. SKIDATA preserves the right to determine that. The solution time only runs during the committed service times according to the agreed coverage period.

**c)** Time to support onsite time shall be the time between the detection of an error by the Customer or SKIDATA (also remote services) and the arrival of the service technician on-site.

The time of detection of an error shall be deemed to be the time at which the Customer reports such error via the hotline in reasonable detail and in a comprehensible manner as is necessary for Troubleshooting. The on-site time only runs during the committed service times according to the agreed coverage period.

**12.2.3.** The duration of each prioritization time shall be defined according to the error classes defined below to which SKIDATA allocates reported problems in accordance with the

Customer's description and according to the times stipulated in this Contract in this respect.

- a) Critical errors: the contractually agreed use is impossible or unreasonably restricted and the error materially affects the Customer's business processes.
- b) Major errors: the contractually agreed use is very restricted and the error materially affects the Customer's business processes, however, the Principal is still able to continue to work in a restricted manner.
- c) Moderate errors: the contractually agreed use is slightly restricted and the error slightly affects the Customer's business processes, however, the Principal is still able to continue to work in a slightly restricted manner.
- d) Minor errors: Incidents which do not fall into any other category.

**12.2.4.** In the course of reaction and/or Troubleshooting, the error occurred can be allocated by SKIDATA to another, less critical error class if the relevant features are applicable in this case, the longer reaction time and/or Troubleshooting time shall apply respectively

### **12.3. Special Obligations to Cooperate**

The Customer shall grant SKIDATA the right (and support SKIDATA in this respect) to access the Customer's equipment online via a remote maintenance tool in order to correct errors and provide support. The connected asset management tool (short CAM) should be installed and activated to simply the service delivery.

## **13. Service labor**

**13.1.** The agreed 'service labor' defines the coverage of troubleshooting costs both through remote maintenance and through on-site support, as well as the associated travel costs at a lump sum.

**13.2.** In case troubleshooting work is not included in the service fee, the working hours and working costs shall be invoiced on a time and material basis in accordance with SKIDATA's price lists valid at the time.

**13.3.** SKIDATA reserves the right to perform service activities via remote maintenance if this is possible.

**13.4.** The accounting and treatment of required spare and wear parts for troubleshooting is to be made according to the option 'Spare Parts'.

## **14. Maintenance**

**14.1.** 'Maintenance' defines the scope of services and the interval of preventative performed maintenance.

### **14.2. General**

**14.2.1.** SKIDATA pledges to perform maintenance as described in the document 'Service Description' in the quoted interval.

**14.2.2.** Customer acknowledges and agrees that Maintenance work shall only be carried out during SKIDATA's normal business hours ("Normal Business Hours"). Customer further acknowledges and agrees that Normal Business Hours do not include any holidays that are recognized by the Federal government and/or SKIDATA, and that SKIDATA's maintenance services will not be available at those times or any other days or times that are outside of the Normal Business Hours.

**14.2.3.** Customer acknowledges and agrees that basic in-house maintenance (also called Level 1 maintenance) can only be performed by Customer when Customer participates routinely SKIDATA trainings.

**14.2.4.** Spare and wear parts are not included in the maintenance fee, therefore accounting and treatment of required spare and wear parts for troubleshooting must be agreed within the Contract (Option 'Spare Parts')

**14.2.5.** These maintenance conditions and the fees to be paid therefore do not include services rendered for troubleshooting purposes.

### **14.3. Hardware**

**14.3.1.** Hardware maintenance is a preventive maintenance and includes the inspection, cleaning, and adjustment of hardware components as well as the execution of test runs necessary for proper operation.

**14.3.2.** SKIDATA shall render the services included in Hardware Maintenance exclusively for the equipment specified in this Contract and at the location stated in the Contract.

**14.3.3.** Hardware maintenance shall be effected as agreed in this Contract once or several times per year within the stated periods of time. The Customer and SKIDATA shall agree on

the specific date for each hardware maintenance a reasonable period of time in advance, taking into consideration each party's legitimate interests.

**14.3.4.** The Customer shall bear the travel expenses for the employees of SKIDATA on an actual cost basis unless a lump sum fee for travel expenses was agreed upon.

**14.3.5.** If the hardware inspection shows that parts of the hardware must be exchanged, especially wear and tear parts (such as rollers, pressure rollers, and drive belts), spare parts or other parts, such exchange shall be affected immediately by SKIDATA's employees to the extent such requirements could be foreseen and SKIDATA's employees brought such parts with them. SKIDATA shall invoice the exchanged parts in accordance with the price list valid at the time if spare parts are not part of the Contract. Wear and tear parts are never covered by the service contract.

**14.3.6.** In particular the following activities are not included in the scope of the preventive hardware maintenance:

- a) remedy of errors and malfunctions caused by force majeure;
- b) remedy of errors and malfunctions caused by any intervention by the Principal, its employees or any third party;
- c) delivery and replacement of consumable products;
- d) remedy of errors and malfunctions caused by the Customer's failure to fulfil its obligations, in particular its obligation to cooperate.

## **15. Spare Parts**

**15.1.** The option 'Spare Parts' defines the optional accounting of the costs for spare parts in a lump sum.

### **15.2. Definitions**

**15.2.1.** Spare part: A spare part is defined as a part that replaces a defective part of a SKIDATA product.

**15.2.2.** Wear part: A wear part is defined as a spare part that replaces a defective part of a product which is defect because of abrasion. Abrasion is the ongoing loss of material of a solid body caused by mechanical causes (grind, roll, hit, scratch, chemical or thermal stress).

**15.2.3.** Refurbished part: A refurbished part is defined as a spare part that has been returned by repair to the original functional state. Refurbished parts are available within an exchange process (defective part against refurbished part).

**15.3.** SKIDATA undertakes to supply and exchange the spare parts for the components contained in the annexed equipment list (site details) and installed at the location stated in this Contract and to effect repair works for electric and mechanical components at SKIDATA's site.

**15.4.** SKIDATA spare and wear parts must be installed by SKIDATA service engineers. Any other handling must be agreed by SKIDATA.

**15.5.** For the purpose of these Service Conditions, spare parts are the components contained in SKIDATA's spare parts catalogue. The Customer shall be entitled to receive the latest version of this spare parts catalogue upon request or in the manner stipulated in this Contract. Consumable products such as ink ribbons or tickets as well as casing parts destroyed by mechanical damage, PCs and related components, palettes, bases and star-type reel stands shall not be covered by these Service Conditions.

**15.6.** Unless otherwise agreed upon SKIDATA reserves the right to demand a retention for certain spare parts. The Customer shall be informed of the parts for which such retention is demanded and its amount in the spare parts catalogue valid at the time or in another manner as specified in this Contract.

**15.7.** The spare parts provided by SKIDATA under these Service Conditions must be operative to such an extent as is required to fulfil the tasks of the part to be replaced. Such spare parts can either be new or overhauled. However, the Customer shall not be entitled to demand the delivery of brand-new parts.

**15.8.** SKIDATA shall supply spare parts to the Customer for as long as the required spare parts/ components are available on the market. SKIDATA will adjust the service fee accordingly.

**15.9.** The service fee to be paid includes - taking into consideration the parts excluded by these Service Conditions - the costs for all spare parts unless a pro rata deductible is stipulated in this Contract.

**15.10.** The supply of spare parts in accordance with these Service Conditions shall be

excluded if:

- a) the defective and/or not fully functional parts were damaged due to negligent or willful acts by the Customer or its employees or due to such acts committed by a third party;
- b) the defect or the impaired functionality of parts is due to improper maintenance, repair, and cleaning of the equipment or to an improper exchange of spare parts by the Customer or its employees;
- c) parts have to be exchanged due to new legal or technical standards or recommendations;
- d) the Customer violates other obligations to cooperate in accordance with these Service Conditions and the General Conditions.

**15.11.** If a specific spare part is exchanged or ordered and such exchange or order is not covered by or violates these Service Conditions, SKIDATA shall invoice the Customer for any costs incurred.

#### **15.12. Exchange Modalities**

**15.12.1.** SKIDATA will render the services if a malfunction occurs during proper use of the equipment. SKIDATA informs the Customer that each SKIDATA-product is registered at SKIDATA by serial number. The warranty sticker helps to identify the warranty time. If warranty sticker is removed from the SKIDATA-product or the components, SKIDATA cannot acknowledge the warranty.

**15.12.2.** To receive the relevant spare parts after occurrence of a malfunction, the Customer must send the defective components in adequate packaging and at its own risk and expense to SKIDATA, to the return address stipulated for this purpose in this Contract. A description of the malfunction must be included. SKIDATA will use its best efforts to repair the components and send them back to the Customer within the agreed time days upon receipt. In case a repair of the components is not possible, SKIDATA will send another spare part to the Customer within a reasonable period of time.

**15.12.3.** Unless otherwise agreed upon the spare parts will be installed by the Customer or its employees at the Customer's risk and expense.

#### **15.13. Replacement in Advance**

**15.13.1.** These provisions shall apply in addition to the previous provisions concerning the exchange modalities. In case of any conflict between these provisions and the previous provisions, these provisions shall prevail.

**15.13.2.** If replacement in Advance is agreed upon with the option Replacement in Advance, the spare parts will be shipped upon a written order via fax, email, or letter before the receipt of the de-installed part.

**15.13.3.** The ordered spare parts will be shipped within 3 (three) workdays after receipt of the order if they are in stock, otherwise they will be shipped within a reasonable period of time. SKIDATA's usual business hours shall be decisive for the point in time the order shall be deemed as received.

**15.13.4.** Within a period of 10 (ten) days upon receipt of the spare parts, the spare parts delivered to the Customer must be exchanged, and the de-installed spare parts (or, if the exchange is not affected, the unused spare parts) must be sent back to SKIDATA at the Customer's risk and expense with an accompanying description of the malfunction. If the Customer fails to send back the parts or if the Customer does not send back the parts in time, SKIDATA will invoice the Customer for the spare parts in accordance with the current price list. In such case, SKIDATA's conditions for the purchase of hardware shall apply.

#### **15.14. Shipment and Packaging**

**15.14.1.** Spare parts will be shipped, and parts will be sent back via mail at the expense of the person effecting the shipment. If SKIDATA employees effect the installation of the spare parts SKIDATA shall be free to deliver the spare parts in connection with such installation.

**15.14.2.** Upon the Customer's written request and in urgent cases, spare parts can also be shipped via rail express or courier service. Any additional costs incurring thereby shall be borne by the Customer.

**15.14.3.** The shipment of spare parts by SKIDATA and the return shipment of exchanged or unused parts by the Customer shall be effected in original packaging or at least in adequate packaging. In particular, the packaging must be tear-proof and shockproof, and anti-static bags and/or hard foam pieces must be used. Shipping notes and a detailed description of the malfunctions incurred must be included.

**15.15. Spare Parts flat**

**15.15.1.** The service Spare Parts flats includes the reparation or the replacement of defective parts. This does not apply when the defect is caused by vandalism, malicious and violent influence or accident.

**15.15.2.** This service requires a maintenance Agreement between Customer and SKIDATA or SKIDATA Partner, if any, and the usage of SKIDATA original tickets and cleaning materials.

**17. Installation of hardware upgrades**

**17.1.** The option 'Upgrade' defines SKIDATA's services in regard to the installation of upgrades to SKIDATA's hardware. For the purposes of these provisions, upgrade means the transition from one major release to the subsequent one. It usually contains some major new features as well as basic enhancements that extend the functionality of hardware."

**17.2.** To ensure proper operation of Principal's system, SKIDATA will review and test upgrades carefully prior to installation. After installation, SKIDATA will ensure that Principal's system is in good condition before it is put into operation.

**17.3.** Spare and wear parts required for the installation of an upgrade are not included in service Contract. The settlement of the required spare and wear parts is based on the option 'Spare Parts'.

**17.4.** As of the time of discontinuation of a certain SKIDATA product, SKIDATA is no longer obliged to provide upgrades to the respective product.

**18. SKIDATA cleaning material**

**18.1.** SKIDATA indicates to use SKIDATA quality assured cleaning material, especially at coding devices. Not recommended cleaning material can lead to breakdowns and errors.

**19. SKIDATA consumable products**

**19.1.** SKIDATA indicates to use SKIDATA consumable products, especially certified SKIDATA short term tickets. Not recommended consumable products can lead to breakdowns and errors.

## Exhibit B

### INSURANCE REQUIREMENTS

#### MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability not less than those set forth under "Minimum Limits of Insurance."
2. The most current version of ISO \*Commercial Auto Coverage Form CA 00 01, providing liability coverage arising out of the ownership, maintenance or use of automobiles in the course of your business operations. The Automobile Policy shall be written on an occurrence form and shall provide coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Cyber Liability (Privacy and Data breach) insurance appropriate to SERVICE PROVIDER'S profession. Coverage shall be sufficiently broad to respond to duties and obligations as is undertaken by SERVICE PROVIDER in this agreement and shall include but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines penalties and credit monitoring expenses with limits sufficient to respond to these obligations.

#### MINIMUM LIMITS OF INSURANCE

SERVICE PROVIDER, or any party the SERVICE PROVIDER subcontracts with, shall maintain limits of liability of not less than those set forth below. However, insurance limits available to CITY, its officers, officials, employees, agents and volunteers as

additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured:

1. COMMERCIAL GENERAL LIABILITY:

- (i) \$1,000,000 per occurrence for bodily injury and property damage;
- (ii) \$1,000,000 per occurrence for personal and advertising injury;
- (iii) \$2,000,000 aggregate for products and completed operations; and,
- (iv) \$2,000,000 general aggregate applying separately to the work performed under the Agreement.

2. COMMERCIAL AUTOMOBILE LIABILITY:

\$1,000,000 per accident for bodily injury and property damage.

3. WORKERS' COMPENSATION INSURANCE as required by the State of California with statutory limits.

4. EMPLOYER'S LIABILITY:

- (i) \$1,000,000 each accident for bodily injury;
- (ii) \$1,000,000 disease each employee; and,
- (iii) \$1,000,000 disease policy limit.

5. CYBER LIABILITY insurance with limits of not less than:

- (i) \$2,000,000 per claim/occurrence; and,
- (ii) \$4,000,000 policy aggregate

UMBRELLA OR EXCESS INSURANCE

In the event SERVICE PROVIDER purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary



and non-contributory basis for the benefit of the CITY, its officers, officials, employees, agents and volunteers.

#### DEDUCTIBLES AND SELF-INSURED RETENTIONS

SERVICE PROVIDER shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and SERVICE PROVIDER shall also be responsible for payment of any self-insured retentions.

#### OTHER INSURANCE PROVISIONS/ENDORSEMENTS

The General Liability and Automobile Liability insurance policies are to contain, or be endorsed to contain, the following provisions:

1. CITY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds. Additional Insured status under the General Liability policy shall be broad as that contained in ISO Form CG 20 10 04 13 or CG 20 26 04 13.
2. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, officials, employees, agents and volunteers. Any available insurance proceeds in excess of the specified minimum limits and coverage shall be available to the Additional Insured.
3. For any claims relating to this Agreement, SERVICE PROVIDER'S insurance coverage shall be primary insurance with respect to the CITY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents and volunteers shall be excess of SERVICE PROVIDER'S insurance and shall not contribute with it. SERVICE PROVIDER shall establish primary and non-contributory status under the General Liability policy by use of ISO Form CG 20 01 04 13 or by an executed manuscript insurance company endorsement that provides primary and non contributory status as broad as that contained in ISO Form CG 20 01 04 13.

All policies of insurance shall contain, or be endorsed to contain, the following provision: SERVICE PROVIDER and its insurer shall waive any right of subrogation against CITY, its officers, officials, employees, agents and volunteers.

All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar days written notice by certified mail, return receipt requested, has been given to CITY. SERVICE PROVIDER is also responsible for providing written notice to

the CITY under the same terms and conditions. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, SERVICE PROVIDER shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for CITY, SERVICE PROVIDER shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.

The Cyber Liability insurance shall cover claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information (including credit monitoring costs), alteration of electronic information, extortion and network security. Such coverage is required for claims involving any professional services for which SERVICE PROVIDER is engaged with the City for such length of time as necessary to cover any and all claims

If the Cyber Liability insurance policy is written on a claims-made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by SERVICE PROVIDER.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement work or termination of the Agreement, whichever occurs first, or, in the alternative, the policy shall be endorsed to provide not less than a five (5) year discovery period.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by SERVICE PROVIDER, SERVICE PROVIDER must purchase "extended reporting" coverage for a minimum of five (5) years completion of the Agreement work or termination of the Agreement, whichever occurs first.
4. A copy of the claims reporting requirements must be submitted to CITY for review.
5. These requirements shall survive expiration or termination of the Agreement.

Should any of these policies provide that the defense costs are paid within the Limits of Liability, thereby reducing the available limits by defense costs, then the requirement for the Limits of Liability of these polices will be twice the above stated limits.

The fact that insurance is obtained by SERVICE PROVIDER shall not be deemed to release or diminish the liability of SERVICE PROVIDER, including, without limitation, liability under the indemnity provisions of this Agreement. The policy limits do not act as

a limitation upon the amount of indemnification to be provided by SERVICE PROVIDER. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of SERVICE PROVIDER, its principals, officers, agents, employees, persons under the supervision of SERVICE PROVIDER, vendors, suppliers, invitees, consultants, subcontractors, or anyone employed directly or indirectly by any of them.

#### VERIFICATION OF COVERAGE

SERVICE PROVIDER shall furnish CITY with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the CITY'S Risk Manager or his/her designee prior to CITY'S execution of the Agreement and before work commences. All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. Upon request of CITY, SERVICE PROVIDER shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

#### SUBCONTRACTORS

If SERVICE PROVIDER subcontracts any or all of the services to be performed under this Agreement, SERVICE PROVIDER shall require, at the discretion of the CITY Risk Manager or designee, subcontractor(s) to enter into a separate Side Agreement with the City to provide required indemnification and insurance protection. Any required Side Agreement(s) and associated insurance documents for the subcontractor must be reviewed and preapproved by CITY Risk Manager or designee. If no Side Agreement is required, SERVICE PROVIDER will be solely responsible for ensuring that it's subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

**EXHIBIT C**  
**DISCLOSURE OF CONFLICT OF INTEREST**  
FAT PARCS Preventative Maintenance

		YES*	NO
1	Are you currently in litigation with the City of Fresno or any of its agents?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2	Do you represent any firm, organization, or person who is in litigation with the City of Fresno?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3	Do you currently represent or perform work for any clients who do business with the City of Fresno?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4	Are you or any of your principals, managers, or professionals, owners or investors in a business which does business with the City of Fresno, or in a business which is in litigation with the City of Fresno?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5	Are you or any of your principals, managers, or professionals, related by blood or marriage to any City of Fresno employee who has any significant role in the subject matter of this service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6	Do you or any of your subcontractors have, or expect to have, any interest, direct or indirect, in any other contract in connection with this Project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
* If the answer to any question is yes, please explain in full below.			

Explanation: N/A

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DocuSigned by: \_\_\_\_\_  
  
David Luken  
 Chief Executive Officer  
 SKIDATA AG  
 195F85F230114B2... \_\_\_\_\_  
 Signature

8/6/2024  
 \_\_\_\_\_  
 Date

David Luken  
 \_\_\_\_\_  
 Name

SKIDATA  
 \_\_\_\_\_  
 Company

5090 N 40th st  
 \_\_\_\_\_  
 Address

Phoenix, AZ, 85018  
 \_\_\_\_\_  
 City, State, Zip

Additional page(s) attached.