

SERVICE AGREEMENT CITY OF FRESNO, CALIFORNIA

THIS AGREEMENT is made and entered into effective the 1st day of November, 2018, by and between the CITY OF FRESNO, a California municipal corporation (hereinafter referred to as "CITY"), and Sentry Control Systems, a Delaware limited liability company (hereinafter referred to as "SERVICE PROVIDER").

RECITALS

WHEREAS, CITY desires to obtain parking control care services for Fresno Yosemite International Airport, hereinafter referred to as the "Project;" and

WHEREAS, SERVICE PROVIDER is engaged in the business of furnishing such services as a 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 (hereinafter referred to as "Administrator") or his/her 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 October 31, 2023, 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 shall be a total fee not to exceed \$205,236.00, 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. 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) 7 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) 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 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.

(c) 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, CITY'S damages caused by such failure. 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.

(d) Upon any breach of this Agreement by SERVICE PROVIDER, 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; (ii) proceed by appropriate court action to enforce the terms of the Agreement; and/or (iii) recover all direct, indirect, consequential, economic and incidental damages for the breach of the Agreement. If it is determined that CITY improperly terminated this Agreement for default, such termination shall be deemed a termination for convenience.

(e) 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.

(f) 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, and 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 of 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. During the term of this Agreement, and thereafter, SERVICE PROVIDER shall not, without the prior written consent of CITY, 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, 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 inasmuch 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), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of SERVICE PROVIDER, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

If SERVICE PROVIDER should subcontract all or any portion of the services to be performed under this Agreement, SERVICE PROVIDER shall require each subcontractor to indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

8. Insurance.

(a) Throughout the life of this Agreement, 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 CITY'S Risk Manager or his/her designee at any time and in his/her 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 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, SERVICE PROVIDER or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to SERVICE PROVIDER shall be withheld until notice is received by CITY that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to CITY. Any failure to maintain the required insurance shall be sufficient cause for CITY to terminate this Agreement. No action taken by CITY pursuant to this section shall in any way relieve SERVICE PROVIDER of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by 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 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 duty to indemnify 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 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, or persons under the supervision of SERVICE PROVIDER, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

(d) 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.

(e) If SERVICE PROVIDER should subcontract all or any portion of the services to be performed under this Agreement, SERVICE PROVIDER shall require each subcontractor/sub-consultant to provide insurance protection, as an additional insured, to the CITY and each of its officers, officials, employees, agents and volunteers in accordance with the terms of this section, except that any required certificates and applicable endorsements shall be on file with SERVICE PROVIDER and CITY prior to the commencement of any services by the subcontractor. SERVICE PROVIDER and any subcontractor/sub-consultant shall establish additional insured status for CITY, its officers, officials, employees, agents and volunteers by using Insurance Service Office (ISO) Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01 or by an executed manuscript company

endorsement providing additional insured status as broad as that contained in ISO Form CG 20 10 11 85.

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) 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 may be waived in writing by the City Manager, if no actual or potential conflict is involved.

(d) 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.

(e) SERVICE PROVIDER and any of its subcontractors shall have no interest, direct or 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.

(f) 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.

(g) 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:

- (i) 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.
- (ii) 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.
- (iii) Cooperate with and demonstrate to the satisfaction of CITY'S Solid Waste Management Division the establishment of the recycling program in paragraph (i) 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 his/her 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 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 his/her 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 his/her 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, SERVICE PROVIDER 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.

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: _____
Kevin Meikle, Director of Aviation
City of Fresno - Airports Department

ATTEST:
YVONNE SPENCE
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: Amanda Freeman
Amanda Freeman Date 1/4/19
Senior Deputy Attorney

Sentry Control Systems,
a Delaware limited liability company

By: Stefan Schaffner
Name: CEO &
Senior Vice President
Title: North America
(if corporation or LLC, Board
Chair, Pres. or Vice Pres.)

By: Julie A. White
Name: CFO Secretary/Treasurer
Title: (if corporation or LLC, CFO, Treasurer,
Secretary or Assistant Secretary)

Addresses:

CITY:
City of Fresno
Attention: Melissa Garza-Perry, Airports
Properties Supervisor
4995 E. Clinton Way, Fresno, CA
Fresno, CA 93727
Phone: (559) 621-4500
FAX: (559) 251-4825

SERVICE PROVIDER:
Sentry Control Systems
Attention: Robert de Bruine, Head of Service,
USA
6611 Odessa Ave
Van Nuys, CA 91406
Phone: (800) 246-6652
FAX: (818) 786-2910

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 Sentry Control Systems, LLC** **Extended Warranty and Services Agreement**

Section 1: Covered Services

- A. Sentry will furnish the selected services specified in this Exhibit and on the equipment listed in this Exhibit, equipment at the Facility and related to the installed software & equipment ("System").
- B. Services covered ("Covered Services") under this Services Agreement and included in the Agreement Price & Payment Schedule in Section 9 below are specifically selected/identified.
- C. Covered Services requested by Customer to be performed at times other than Regular Working Hours will be provided at Sentry's then prevailing premium rates as set forth in the rate schedule in Sections 13 and 14, Rate for Non-Covered Services, as modified from time to time during the term of this Services Agreement.
- D. All items, services and terms identified in the Request for Proposals dated June 2015 shall control over those items listed as Non-Covered Services in Section 2, below. Request for Proposals is attached hereto and incorporated herein as Exhibit D.
- E. Sentry will make a reasonable effort to respond to an authorized request for an unscheduled service call on the same day if the service call is placed before 11:00 a.m. on a regular working day.

Section 2: Non-Covered Services

Covered Services do not include unless otherwise documented in this Exhibit:

- A. Repair or replacement of damaged or broken parts or items of equipment that are damaged or fail due to malicious, intentional or accidental acts, insect infestation, or acts of nature.
- B. Replacement of gate arms, print heads, ticket feeders, cutter assemblies, UPS batteries or sign faces or restocking of parking tickets.
- C. Setting or changing the time or date of clocks or resetting counters, except settings that are automated and improperly functioning.
- D. Service calls to deal with the consequences of a power failure, removal or suspension of primary power for any reason, failure of loop wire, or failure of interconnect wiring.
- E. Installation or implementation services of new Software releases issued by the manufacturers of equipment items; all upgrades and other changes to the software and hardware, with the exception of what is identified in the Request for Proposals dated June 2015.
- F. SKIDATA software upgrade licenses, unless Upgrade. Care is purchased, with the exception of what is identified in the Request for Proposals dated June 2015.
- G. Training of Customer's personnel responsible for operating the System, unless Training. Care is purchased, with the exception of what is identified in the Request for Proposals dated June 2015.
- H. All hardware upgrades issued by the manufacturers of equipment items or future

Exhibit A

SCOPE OF SERVICES **Service Agreement between City of Fresno** **and Sentry Control Systems, LLC** **Extended Warranty and Services Agreement**

replacements are specifically excluded from the scope of work under this Services Agreement, with the exception of what is identified in the Request for Proposals dated June 2015.

- I. All version upgrades, installation and implementation services, and any other costs associated with deployment of a new, revised, enhanced, or modified payment application that may be deemed necessary to meet new Payment Application validation requirements are specifically excluded from the scope of work under this Services Agreement. In such a circumstance, a separate quote will be provided by Sentry and Sentry will wait for written authorization to proceed before this work is performed, with the exception of what is identified in the Request for Proposals dated June 2015.
- J. Any hardware, firmware, software required to implement EMV, and/or address PCI requirements, is specifically excluded from the scope of work under this agreement, with the exception of what is identified in the Request for Proposals dated June 2015.
- K. Preventative or remedial maintenance services required due to the failure of the Customer or the Operator to perform its preventative maintenance services or functions and services for which they have been trained.
- L. Consumable and third-party manufactured items as defined by Sentry, including for example, shear bolts, thermal print heads, locking assemblies, UPS batteries and similar items.
- M. All software updates or upgrades are excluded from this Agreement, unless specifically included in Covered Services.

Sentry will provide the non-covered services, materials and consumable items listed above ("Non- Covered Services") on a time and materials basis. Maintenance requested by Customer for Non- Covered Services will be available during Regular Working Hours at Sentry's then prevailing standard rates as set forth in the rate schedule in Section 14, as modified from time to time during the term of this Services Agreement. Maintenance requested by Customer for Non- Covered Services during other than Regular Working Hours will be provided at Sentry's then prevailing premium rates as set forth in the rate schedule in Section 14, as modified from time to time during the term of this Services Agreement.

Section 3: Additional Services Terms & Conditions

- A. Response Time is defined as the maximum length of time from when a service call is placed via Sentry's 1-800 service number to the time that a qualified Sentry technician contacts Customer via phone or e-mail (whichever is most appropriate) to diagnose, troubleshoot or otherwise coordinate resolution of the reported issue. Customer will provide appropriate contact information during its call to Sentry's 1-800 number, as referenced in paragraph b, Requirements to Report Incidents, below.
 - a. Response times will not apply under the following conditions:
 - i. Any inability to perform or delay in the performance of Sentry's services due to fire, flood, earthquake, water, wind, lightning, or other natural disaster, strike, inability to obtain materials or utilities, war, terrorism, civil disturbance, or any other cause beyond Sentry's reasonable control; or

Exhibit A

SCOPE OF SERVICES

Service Agreement between City of Fresno and Sentry Control Systems, LLC

Extended Warranty and Services Agreement

- ii. Any damage arising from the use of the equipment in any application other than the commercial application for which the equipment is intended as part of the PARCS System at the Facility.
- b. Response times do not apply to:
 - i. Customers with delinquent accounts where amounts are past due and payable under this Services Agreement.
- B. Requirements to Report Incidents. At a minimum, the following information will be provided by individuals who have completed basic SKIDATA Operations Training:
 - i. Name and telephone number of individual placing Service request
 - ii. Description of issue
 - iii. Troubleshooting steps already performed
 - iv. Location of issue
 - v. Priority of the issue as further defined in this Exhibit
 - vi. Contact name and phone number

C. Obsolete and Unsupported Software or Hardware

Replacement of unsupported hardware or software is not included in the scope of work under this Services Agreement unless otherwise documented in this Exhibit. Every reasonable attempt will be made to support and maintain operational status. Sentry is in no way responsible for replacing product, hardware or software that is no longer supported or in obsolescence by the original equipment manufacturer (OEM). Every attempt within reasonable time and cost will be attempted to support equipment installed at the Facility, including untraditional methods. If it is decided that a product is unsupportable and/or that supportability will require an unreasonable amount of resources, a proposal will be submitted by Sentry to Customer. It is at Sentry's sole discretion to determine what is unreasonable and what products are unsupportable.

Section 4: Trained Employees

Sentry will perform all services required by the terms of this Services Agreement through trained personnel employed and supervised by Sentry. Sentry agrees that each of its employees will be properly qualified and will use reasonable care in the performance of his or her duties.

Section 5: Access to Facility

Sentry's employees and authorized representatives shall have access to Customer's Facility and the Equipment during Regular Working Hours for the purpose of performing the Covered Services and, at the request of Customer, Non-Covered Services. Customer also shall permit Sentry's employees and authorized representative's access to the Facility and the Equipment during other than Regular Working Hours for the purpose of performing Covered and Non-Covered Services requested by Customer. Access to the Facility shall include use of toilet, use of power and free parking. Customer will provide a safe working environment.

Exhibit A

SCOPE OF SERVICES **Service Agreement between City of Fresno** **and Sentry Control Systems, LLC** **Extended Warranty and Services Agreement**

Section 6: Disclaimer of Warranties

Any warranties covering the System and replacement parts installed by Sentry at the Facility or otherwise delivered by Sentry to Customer at the Facility are provided solely by the manufacturers thereof and are included in the marketing materials provided by the manufacturers. Sentry is not authorized by the manufacturers of the equipment, the Software and replacement parts to make any other warranties on their behalf. The manufacturers' warranties are in lieu of all other warranties, express or implied.

SENTRY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER ACKNOWLEDGES AND AGREES THAT THERE ARE NO WARRANTIES OF ANY KIND EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, OTHER THAN THE MANUFACTURERS' WARRANTIES REFERRED TO HEREIN.

Section 7: Representations

- A. Sentry represents and warrants to Customer as follows: (i) Sentry is a corporation organized, validly existing and in good standing under the laws of California and has the power and authority to enter into and perform this Services Agreement; and (ii) Sentry has taken all necessary action to authorize the execution, delivery and performance of this Services Agreement and has executed and delivered this Services Agreement.
- B. Customer represents and warrants to Sentry as follows: (i) Customer is a corporation or other business entity organized, validly existing and in good standing under the laws of its jurisdiction of organization and has the power and authority to enter into and perform this Services Agreement; and (ii) Customer has taken all necessary action to authorize the execution, delivery and performance of this Services Agreement and has executed and delivered this Services Agreement.

Section 8: Conflict

In the event of a conflict between this Exhibit A and the body of the Agreement, the terms of the body of the Agreement shall control.

Section 9: Service Agreement Options

AGREEMENT LEVEL	
<input checked="checked" type="checkbox"/>	BASIC.CARE
INCLUDES THE FOLLOWING SERVICES:	
PREVENTATIVE.CARE, SOFTWARE MAINTENANCE.CARE, ANTIVIRUS. CARE	

Exhibit A

SCOPE OF SERVICES
Service Agreement between City of Fresno
and Sentry Control Systems, LLC
Extended Warranty and Services Agreement

<input checked="" type="checkbox"/> EXTENDED.CARE INCLUDES ABOVE SERVICES AND IN ADDITION: PARTS.CARE, AND TRAINING.CARE
<input checked="" type="checkbox"/> PREMIUM.CARE INCLUDES ABOVE SERVICES AND IN ADDITION: SERVICE.CARE, PCI-SECURITY.CARE, OPERATIONS.CARE AND RESPONSE.CARE (BUSINESS HOURS LABOR) <input type="checkbox"/> INCLUDE AFTER BUSINESS HOURS (MONDAY TO FRIDAY LABOR) <input type="checkbox"/> INCLUDE 24/7 SERVICE.CARE (7 DAYS A WEEK LABOR)
<input type="checkbox"/> UPTIME.CARE INCLUDES ABOVE SERVICES AND IN ADDITION SERVICE PERFORMANCE REPORTS AND PENALTIES
ADDITIONAL SCOPE OPTIONS:

Section 10: Descriptions of the scope of work relative to available service options:

- A. **Preventative.Care**—Quarterly preventative hardware maintenance to the manufacturer's recommendations (i.e. 50k transactions), includes systematic inspection, detection, correction and prevention of incipient failures, including tests, measurements, adjustments, lubrication and labor to replace parts of the equipment as scheduled by Sentry during regular working hours of 8:00 a.m. to 5:00 p.m. pacific time, Monday through Friday, excluding public holidays ("Regular Working Hours"). At a minimum, all equipment under this Services Agreement will be maintained according to manufacturer's recommendations.
- B. **Software Maintenance.Care**—Applicable biannual (*semiannual*) SKIDATA Software intra-release updates and hotfixes (*for supported releases, and as released by the manufacturer*) which address reported technical issues, offer applicable feature enhancements or offer improved functionality may be provided. Install and manage quarterly OS updates, firmware updates and security patches.
- C. **Antivirus.Care**—Manage & regularly verify that antivirus is active, running and latest updates are applied. Review antivirus server and antivirus agents to ensure signatures are up to date and agents are active and functioning.
- D. **Parts.Care**—Extended Warranty. Following the Manufacturer Warranty Period, Sentry will supply an Extended Warranty covering term of the agreement ("Extended Warranty Period"). All PARCS equipment components, software and hardware listed in "Equipment

Exhibit A

SCOPE OF SERVICES

Service Agreement between City of Fresno and Sentry Control Systems, LLC Extended Warranty and Services Agreement

Covered in Services Agreement" are warrantied against failure by manufacturer defect ("Extended Warranty"). All- inclusive costs (*parts, labor required for repair or replacement of defective PARCS equipment identified in "Equipment Covered in Services Agreement", warranty repairs, shipping charges, travel time, additional expenses relative to Extended Warranty, etc.*) incurred during the Extended Warranty Period shall be provided without additional cost to the Customer.

Advanced replacement of components.Sentry will replace all failed components with a serviceable part immediately from their service inventory to reduce downtime.

- E. **Training.Care**—Unlimited customized training for Customer for term of contract, in Sentry's onsite Training Center located at 6611 Odessa Ave, Van Nuys, CA. Topics include PARCS equipment, preventative maintenance and SKIDATA reporting . Requests to schedule training will be provided by Customer four (4) to six (6) weeks prior to requested training date. Minimum of four (4) attendees per scheduled training is required. Training agenda will be established no less than fifteen (15) business days prior to the training date and will be mutually agreed upon by the parties.
- F. **Service.Care**—Labor to respond to unscheduled service calls for remedial maintenance (*as a result of normal wear and tear*) performed in response to Customer's request during Regular Working Hours.
- G. **PCI-Security.Care** — Scheduling and assisting with credit card data key encryption changes and OS password changes. All passwords will meet minimum complexity requirements. Visual inspection to ensure all locks are in working order, no credit card skimmers exist, and for signs of tampering of equipment.
- H. **Operations.Care**—Assist with rate changes, validation setup, password lockout, article and user group setup, software setup changes and ad hoc reporting.
- I. **Afterhours.Care**— Labor to respond to unscheduled service calls for remedial maintenance (*as a result of normal wear and tear*) performed in response to Customer's request on a twenty-four (24) hours per day basis Monday through Friday, excluding Sentry and public holidays.
- J. **24/7 Service.Care**— Labor to respond to unscheduled service calls for remedial maintenance (*as a result of normal wear and tear*) performed in response to Customer's request during Regular Working Hours, and during hours of 8:00 a.m. to 5:00 p.m. on Saturday through Sunday, excluding Sentry and public holidays.
- K. **Response.Care**—Expedited response to a service call placed by an authorized representative for Customer.
 - a. There are four priority levels for service requests ranging from Priority-1 (the highest priority) to Priority-4 (the lowest priority). Each priority level will have a required response time, as further defined in table below.

Exhibit A

SCOPE OF SERVICES Service Agreement between City of Fresno and Sentry Control Systems, LLC Extended Warranty and Services Agreement

Section 11: Service Level Response Time and Service Level Priority Definitions.

SERVICE LEVEL RESPONSE TIME				
	During Business Hours		After Business Hours	
Priority	Remote Response	On-Site Response	Remote Response	On-Site Response
1	4 hours	8 hours of service call	4 hours	8 hours of service call
2	8 hours	48 hours of service call	8 hours	48 hours of service call
3	12 hours	72 hours of service call	12 hours	72 hours of service call
4	As Scheduled	As Scheduled	As Scheduled	As Scheduled

SERVICE LEVEL PRIORITY DEFINITIONS		
Priority Code	Scope	Examples
1	<p>Emergency: An entire critical sub-system is down or an entire parking structure is inoperable.</p> <p><i>*Critical sub-systems include application servers (SKIDATA, Anti-Virus, Domain), data servers (SKIDATA or PARCS), Credit Card System, LPR System, , Card Access System, Intercom System</i></p>	<ul style="list-style-type: none"> • A1 structure cannot exit any cars • The Credit Processing System is down • An entire entry or exit plaza within a structure is down
2	<p>Urgent: An important sub-system is down or a major aspect of a parking structure is not functional.</p> <p><i>*Important sub-systems include PARCS Workstations, Entry Lanes (two or more in a single structure), Exit Lanes (two or more in a single structure), Parking Space Count System</i></p>	<ul style="list-style-type: none"> • A manned cashier booth is down • Two or more express lanes are down simultaneously within a single parking structure

Exhibit A

SCOPE OF SERVICES Service Agreement between City of Fresno and Sentry Control Systems, LLC Extended Warranty and Services Agreement

3	Normal: Normal, daily break/fix activity.	<ul style="list-style-type: none"> • LPI or Valet handhelds not working • Coder not functional • POF lock broken • LPR not functional in a single lane in one structure • One of the master handsets in the Command Center is not functional • An electronic sign at an entry or exit lane is not functional
4	Scheduled Maintenance or Priority 1 – 3 delayed with the Customer's permission.	<ul style="list-style-type: none"> • Routine Scheduled Maintenance activity • If we have permission for delay on Priority 1–3, the authorized Customer contact name must be logged

- L. ***Uptime.Care***— Total Care with Performance Guarantees. The Customer allows Sentry to provide maintenance support services against an Uptime guarantee performance metric. Sentry will be solely responsible for the performance of the components (Section 12) and services associated with this metric (defined as within its scope of responsibilities and defined exclusions, see Appendix A). Consequently, Sentry is remunerated based on the scheduled defined in Section 12, whereby Downtime Penalties are applied if the uptime thresholds are not met or exceeded. Penalties are drawn from the value of the next Monthly Service Fee. See Section 12 for full details.

Section 12: Equipment Covered in SERVICES AGREEMENT

This equipment list may be adjusted during the term of this Services Agreement on mutual agreement. These adjustments will be priced, accordingly, and quoted separately. Such adjustments along with additional locations and equipment, including maintenance, shall be agreed to in advance and will be provided through an amendment to this Services Agreement and will require approval.

Cisco ASA Firewall/Router for parking network	1
Cisco SG 300 Switch 10 port GB	5
HID Standard Proximity Card	1,051
APC rack mount -UPS 1500VA	1
UPS vA 1000	12
Barrier.Gate-Standard non-	11
GE300 9-12 Analog Subscribers with Tel Card	1
Entry Power.Gate Basic, HID	6
SFTW Remote Desktop 1 or 2	1

Exhibit A

SCOPE OF SERVICES Service Agreement between City of Fresno and Sentry Control Systems, LLC Extended Warranty and Services Agreement

Exit Power.Gate Unlimited,	3
HP Process PC, Workstation -	3
Keyboard, Monitor, Mouse	3
SKIDATA Exit Cashier with	3
SFTW Credit/Debit Cards	1
3C EMV Attended Terminal	4
3C EMV Unattended XENOA	8
3C Setup Fee--One Time	1
Monthly Only Intercom & HID	1
Cisco "GBIC" Network Adaptor	4
Single mode fiber	
SFP Transceiver for MM Fiber 100	12
Base FX GBIC	

Section 13: Agreement Price & Payment Schedule

SERVICE	SERVICE DESC.	ANNUAL FEE	SCHEDULE
YEAR 1	Premium Service	\$ 30,811	Annually
YEAR 2	Premium Service	\$ 37,380	Annually
YEAR 3	Premium Service	\$ 41,896	Annually
YEAR 4	Premium Service	\$ 46,438	Annually
YEAR 5	Premium Service	\$ 48,711	Annually

Note: Customer is agreeing to a 5 year locked in term, for a discount of 15% - if the customer decides not to continue for the full-term, the full rate will be invoiced.

Note: Actual Sales & Use Tax May Vary. Customer is Responsible for Changes Required by Local Tax Jurisdiction

Section 14: Rate Schedule For Non-Covered Services

A. Standard Rate Schedule - Regular Service (Monday – Friday, 8am – 5pm)

Standard rates are billed in 30 minute increments with minimum periods defined in the table below. Time exceeding any 30 minute increment is rounded up to the next increment. These rates are applicable during normal Sentry business hours.

Exhibit A

SCOPE OF SERVICES Service Agreement between City of Fresno and Sentry Control Systems, LLC Extended Warranty and Services Agreement

Labor Category	Time of Service	Minimum Time	Rate for Minimum Period	Hourly Rate After Minimum Period
Service / Maintenance Technician	Regular Hours	One-half hour	\$158	\$158
System Engineer	Regular Hours	One-half hour	\$208	\$208

B. Emergency Service (*afterhours, premium rate*)

Monday – Saturday @ 2 times the Regular Service or Systems Engineer rates (two hour minimum charge).

Sunday & Holidays @ 2.5 times the Regular Service or Systems Engineer rates (two hour minimum charge).

Rates are subject to change with 90 days written notice.

C. Uptime Guarantee Service Agreement

In accepting this Agreement, the Customer is allowing Sentry to provide support services against an uptime guarantee performance metric. Sentry will be solely responsible for the performance of the components and services associated with this metric (defined as within its scope of responsibilities and defined exclusions, see Appendix A). Consequently, Sentry is remunerated based on the scheduled defined in Appendix B ("Monthly Service Fee"), whereby Downtime Penalties are applied if the uptime thresholds are not met or exceeded. Penalties are drawn from the value of the next Monthly Service Fee.

D. Downtime Penalty Calculation

In the event that the System is not available due to Critical or Major System Disruption failures as defined herein, twenty-four (24) hours per day, seven (7) days per week, three hundred and sixty-five days (365) per year. One hundred percent (100%) of the uptime, ("Monthly System Uptime Standard"), is based on the amount of devices x 24 hours per day x days per month. Due solely to the failure of Sentry to perform, Sentry will provide Customer with a fee credit equal to a percentage of the fees charged to Customer for the affected Service with respect to the month in which the failure occurs and will issue the credit on the first invoice after such Service Level failure occurred, in accordance with the table listed in the table below.

Exhibit A

SCOPE OF SERVICES **Service Agreement between City of Fresno** **and Sentry Control Systems, LLC** Extended Warranty and Services Agreement

Table 1 - Fee Credit for Monthly System Uptime Standards

System Uptime	% of Fees for monthly affected services
<99.5% and ≥99.0%	30%
<99.0% and ≥98.5%	35%
<98.5% and ≥98.0%	40%
<98.0% and ≥90.0%	45%
below 90.0%	50%

E. Priority Levels for System Uptime, Response Times and Resolution Times

Once an issue is submitted, a priority level will be assigned in accordance with the definitions listed below. Sentry represents and warrants that it shall use best efforts to provide the Customer Operations team with a total resolution or a temporary "fix" as set forth in attachment

Appendix A - System/Software Response and Resolution Time Service Level Table:

	Priority 1	Priority 2	Priority 3	Priority 4	Priority 5
Description	Critical System Disruption –	Major System Disruption –	Moderate Function Failure; normal, Daily break/fix activity	Minor issue or Question; scheduled service or Priority 1-3 delayed with Customers Ops permission	Customization / Programming
Examples:	A Critical disruption in business-critical system operability or functionality, affecting the entire system at one property or more, or total system failure, including any Software component that causes the System or Systems to fail for any or all properties or venues under the Agreement (i.e. the solution is inoperable)	A Major disruption in business-critical functionality that does not impact the entire system such as, but not limited to: <ul style="list-style-type: none"> Significant number of terminals/users unable to perform business functions or process transactions Loss of ability to perform payment functions on significant number of payment devices at one or more property(ies) Total loss of reporting Multiple entry lanes are down simultaneously within a single parking structure Multiple POF machines are down within a single parking structure 	A moderate disruption in operability or functionality that does not impact the entire system such as: <ul style="list-style-type: none"> Coder not functional POF banknote jam LPR not functional in a single lane in one structure An electronic sign at an entry or exit lane is not functional 	<ul style="list-style-type: none"> Programming or configuration related questions Questions relating to functionality, operability formatting or cosmetic problems 	<ul style="list-style-type: none"> Enhancement requests Any non-covered or out-of-scope issue
Voice Response Time Goal	Immediate/1 st Available but within 30 minutes	Within 1 Hours	Within 2 Hours	Next Business Day	Next Business Day
Onsite Response Time Goal	8 Hour, Onsite Response	48 Hours, Onsite Response	Within 72 Hours	As Scheduled	As Scheduled
Resolution Time Goals	8 Hours; each 24-hour period shall be considered a separate incident	Within 24 Hours after start trouble shooting	Within 48 Hours after start troubleshooting	As Scheduled	Will vary depending on the nature of the request.

Response to Service Level Failures

- Each priority level sets out a minimum performance standard value as well as the Monthly System Uptime Standard (collectively, the "**Service Level Standards**").
- If Sentry fails to meet any applicable Service Level Standard, Sentry will (i) promptly investigate and report on the root cause of the problem; (ii) advise Customer Ops of the remedial efforts being undertaken with respect to this failure to meet the Service Level Standards; (iii) correct the problem and begin meeting the Service Level Standards; and (iv) take appropriate preventative measures to ensure that the problem does not recur.
- A "Service Level Failure" shall be deemed to occur if Sentry fails to meet the applicable service level performance standard (as set forth above) as calculated over the applicable measurement period.
- A "**Multiple Incident Failure**" shall be deemed to occur if (a) three (3) or more Priority 1 incidents occur in a six (6) month period or (b) five (5) or more Priority 2 incidents occur in a six (6) month period; provided, however, if it is determined that multiple incidents occurring over a time period of less than twenty-four (24) hours had the same root cause, all such incidents shall be considered a single incident.

OTHER PROVISIONS

Exclusions: Sentry shall be excused from a Service Level Failure if, and to the extent that, the cause of such failure is the result of one or more of the following: (i) a Force Majeure; (ii) scheduled Downtime (not to exceed eight (8) hours per month) must be defined and approved by Customer Operations in advance; (iii) emergency downtime due solely to a failure by Customer Operation; (iv) scheduled upgrades or required patches downtime; and (v) action of omission by Customer Operations, Third Party Supplier's and only to the extent that such action or omission of such third Party Sentry is not within the scope of the responsibilities Sentry has assumed under the Agreement or any ancillary document with respect to such Third Party vendors and such action or omission affects Sentry's ability to perform under the Agreement or any ancillary document and/or meet its obligations in the manner described herein (each, an "**Excuse**").

Measurement and Monitoring Tools General: Sentry shall utilize the necessary measurement and monitoring tools and procedures required to measure and report its compliance with the Service Level Standards. Any measurement and monitoring shall permit reporting at a level of detail sufficient to verify compliance with the Service Level Standards. Sentry shall provide Customer Operations with information and read-only access to such tools and procedures upon request, for purposes of verification. Sentry shall have operational, administrative, maintenance and financial responsibility for all tools required to measure performance against the Service Level Standards.

Reporting Period: Sentry shall measure, monitor and provide detailed reports to Customer Operations of its compliance with the Service Level Standards each month. Sentry shall provide Customer Operations with reports on a monthly or quarterly basis (depends on what is agreed on). At a minimum, the reports shall include the following information:

- **Service Level Summary:** Summarizes all Service requests made within the reporting period including the number of calls received, the average response time,

average time to arrive on-site, and average repair times for each service level. If run for longer than a single day, the report must include summaries for each day, each week, and each month within the reporting interval. For example, a report run from January 1 through February 28 will show the numbers for each day, as well as the roll-up numbers for each week, for January, and for February.

- **Service Level Compliance:** A single-page summary of the service level compliance for the reported period. It will include the total number of Service requests, the number of requests that are out of compliance, and details for each Service request that is out of compliance for each priority level. The Service request details can use as many additional pages as needed.
- **Service Request Details:** Detailed information about any individual Service request. The report must be runnable on a single request, a list of requests, a range of requests, or all requests within a user-defined time period. This report is only available in a PDF work order format.
- **Service Request Summary:** Summary information about an individual Service request. The report must be runnable on a single request, a list of requests, a range of requests, or all requests within a user-defined time period. This report is only available in a PDF work order format.

Verification of Compliance: Upon Customer Operations request, Sentry shall provide, and Customer Operations shall have access to, any and all measuring and monitoring information that Sentry utilizes in determining its compliance with the Service Level Standards.

Review: At least annually during the Service Term, the Parties will review the Service Level Standards and service level performance standards and make or advise upward adjustments to them to reflect improved performance capabilities associated with advances in technology so that Customer Operations can maintain its competitiveness in the markets in which it competes. All such changes to the Service Level Standards and service level performance standards will be recorded in an Ancillary Document executed by the Parties.

Exhibit B

INSURANCE REQUIREMENTS

**Service Agreement between City of Fresno ("CITY")
and Sentry Control Systems, LLC ("SERVICE PROVIDER")**
Extended Warranty and Services Agreement
PROJECT TITLE

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). If personal automobile coverage is used, the CITY, its officers, officials, employees, agents and volunteers are to be listed as additional insureds.
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Technology Liability (Errors and Omissions) 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 wrongful acts 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 excluding PCI fines, fees, penalties and assessments, 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. **TECHNOLOGY PROFESSIONAL LIABILITY** insurance with limits of not less than:

- (i) \$1,000,000 per claim/occurrence; and,
- (ii) \$2,000,000 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. Any deductibles or self-insured retentions must be declared to on the Certificate of Insurance, and approved by, the CITY'S Risk Manager or his/her designee. At the option of the CITY'S Risk Manager or his/her designee, either:

- (i) The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, officials, employees, agents and volunteers; or

- (ii) SERVICE PROVIDER shall provide a financial guarantee, satisfactory to CITY'S Risk Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall CITY be responsible for the payment of any deductibles or 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. SERVICE PROVIDER shall establish additional insured status for the City and for all ongoing and completed operations by use of ISO Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01 or by an executed manuscript insurance company endorsement providing additional insured status as broad as that contained in ISO Form CG 20 10 11 85.
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 by using 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.

The Workers' Compensation insurance policy is to 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.

If the Technology 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.

Coverage shall not be non-renewed, coverage limits shall not be reduced and no substantive changes will be made to the coverage without providing forty-five (45 days) written notice to City by certified mail, return receipt requested. Cancellation shall be in accordance with the provisions of Acord 25 (2014/01 Form). 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.

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 policies 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, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

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 shall require and verify that subcontractors maintain insurance meeting all the requirements stated herein and SERVICE PROVIDER shall ensure that CITY, its officers, officials, employees, agents, and volunteers are additional insureds. The subcontractors' certificates and endorsements shall be on file with SERVICE PROVIDER, and CITY, prior to commencement of any work by the subcontractor.

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.

WITNESSED BY
CITY OF
CITY OF
CITY OF

Exhibit C

DISCLOSURE OF CONFLICT OF INTEREST

City of Fresno - Airports Department and Sentry Control Systems, LLC - Extended Warranty and Services Agreement
PROJECT TITLE

		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: _____

Additional page(s) attached.

Signature _____

Stefan Schaffner

Date _____

CEO &

(name) **North America**

Skidata, Inc
(company)

16300 Stagg Street - 2nd Fl
(address)

Van Nuys, CA. 91406
(city state zip)