

AGENDA ITEM 23

Discuss and take appropriate action on automated victim notification system.

Moved: **Judge Doerfler**

Seconded: **Commissioner Limmer**

Motion: To appoint Linda Kaderka as the project manager for the county's participation in the VINE program.

Vote: 5 - 0

< Attachment >



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 19, 2003

Ms. Linda Kaderka
Williamson County Sheriff's Department
508 South Rock St.
Georgetown, TX 78626

Dear Ms. Linda Kaderka:

On behalf of the Attorney General, welcome to Texas VINE. We are pleased that Williamson County is participating in this worthwhile statewide program. VINE provides an invaluable safety net for crime victims and an important communication tool for criminal justice professionals.

Enclosed you will find the following documents:

- ☐ Texas VINE Grant Contract (3 copies) - please have the proper authority sign all three grant contracts.
- ☐ County Implementation Plan - outlines the steps necessary to complete an installation of the VINE Gateway. This must be signed by the designated County Project Manager.
- ☐ Texas VINE County Contact Information Form - the Contact Information Form is critical in order to identify the primary contacts for the coordination of a successful implementation.

All documents must be signed and returned to us in a complete package. Upon approval, an executed copy of the contract will be returned to you along with instructions on the proper billing process.

Thank you for your support of Texas VINE. If you have any questions, please contact Dr. Gary Walker at 512-936-1236 or by e-mail at gary.walker@oag.state.tx.us.

Sincerely,


Herman Millholland, Director
Crime Victim Services Division

Enclosures (5)

Automated Community Information and Notification Services



cost
effective



state-
of-the-
art

fast



flexible

safe



easy-
to-use



reliable



The VINE Company

Serving Criminal Justice Through Automated Technology

The Call Center - Patented Technology

The Call Center has been awarded numerous patent claims for its method of communicating and disseminating information that must be collected from potentially hundreds of different agencies or locations. The Call Center accepts the information from jails, prison facilities, courts, or prosecutors 24 hours-a-day, seven days-a-week, 365 days-a-year. *It is then able to organize and distribute that information accordingly to the public via inbound information lines or outbound notifications.*

What does this patented technology mean to your organization? The advantages of automated notification capabilities from a centralized source are numerous, including:

- Consistent service for communities of all sizes
- Control program reliability, consistency, and quality
- Data integration as offender's location changes
- Cost management associated with information processing and equipment maintenance
- Inter-agency collaboration becomes manageable
- Educating the public with "one-stop" concept.

Why Automated Notification?

In recent years many states and local jurisdictions have sought to improve their victim notification and assistance processes. All 50 states have passed a statutory crime victims' bill of rights, and over half have amended their constitution to include rights for victims. The most fundamental right may well be "the right to be informed."

Automated notification allows agencies to more efficiently and accurately inform people of important events pertaining to their individual case. While traditional paper-based systems are costly and time consuming, automation offers an approach that:

- Saves time and money
- Provides a better way to verify and track your notification requirements, enabling program evaluation
- Online reporting features via the Internet provides up-to-the-minute status of outbound calls
- Offers consistent calling patterns
- Communicates important messages even when no one is home
- Communicates via numerous media, including phone, pager, and e-mail
- Notifications happen in "real time," 24 hours-a-day, 365 days-a-year, on a variety of incidents
- Information line capability frees existing staff to focus on crime prevention matters

Automation simplifies the notification process for the professionals who manage the process and the end-user, who can anonymously opt in or out of a notification program.

Experience Counts

The VINE Company is the unquestionable leader in providing automated information and notification services. Our technical staff is well versed in the use of the latest technology; in fact, they often create technologies to develop innovative solutions to our customers' problems.

As a service organization, our employees are wholly dedicated to customer satisfaction and the ongoing success of our clients. No other firm has the experience, capability, or resources to implement automated notification services on a large scale, or provide the efficiencies of large networks to small-scale projects.

For a complete listing of The VINE Company product line, contact our Sales and Marketing Group at 1-800-816-0491, or visit us on the web at www.vineco.com.



Exhibit K-01 Schedule of Payments Williamson County

County Size 438 ADP
Category¹: Large

Participation
Sequence #²:

Subject to the terms and conditions included in the Agreement, this **Exhibit K-01 Schedule of Payments** shall describe the payments that Customer shall pay to Appriss.

1. Implementation ("County Startup") Amount. Customer shall pay Appriss a one time fee for the implementation of the Services determined as follows:

Standard Amount ³	Discount Rate ⁴	Discount Amount	Total Amount:
\$45,540	0%	\$-	\$45,540

2. Annual Maintenance Amount. Customer shall pay Appriss an annual maintenance amount for the Initial Term of the Services determined as follows

Standard Amount ⁵	Discount Rate ⁶	Discount Amount	Total Amount:
\$32,350	0 %	\$ 0	\$32,350

3. Schedule of Payments.

¹ based on the size category of the county listed in *Service Price: I. County Standard Pricing Guide of the Vendor Certification*

² the number or order in which the county is joining the statewide program, based on the number of counties already participating.

³ based on the related price listed in *Service Price: I. County Standard Pricing Guide of the Vendor Certification*

⁴ based on the 55% mobilization grant discount as described in *Service Price: III. County Startup Pricing Discount of the Vendor Certification*.

⁵ based on the size category of the county and the related price listed in *Service Price: I. County Standard Pricing Guide of the Vendor Certification*

⁶ based on the number of counties participating as defined in *Service Price: IV. Discounts for Annual Service of the Vendor Certification*

The above described Implementation ("County Startup") Amount and the Annual Maintenance Amount shall be paid to Appriss by Customer according to the following schedule of completed and accepted Payment Milestones:

Payment Milestones⁷

Payments shall be divided into two (2) milestones:

Milestone 1 ⁸		
50% of Implementation ("County Startup") Amount	20% of Annual Maintenance Amount	Total Amount of Milestone 1
\$22,770	\$6,470	\$29,240

Payment Milestone 1. These fees are billed and due upon completion by Appriss and acceptance by the Customer of those milestones and Deliverables that are detailed in the **Exhibit V-01 Vendor Certification Document**, including **Deliverable C-03 County Infrastructure**. This billing includes: 50% of the Implementation ("County Startup") Amount and 20% of the Annual Maintenance Amount.

Milestone 2 ⁹		
50% of Implementation ("County Startup") Amount	80% of Annual Maintenance Amount	Total Amount of Milestone 1
\$22,770	\$25,880	\$48,650

Payment Milestone 2. These fees are billed and due after having been completed by Appriss and accepted by the Customer for the milestones that are detailed in the **Exhibit V-01 Vendor Certification Document** and **Deliverable C-08 Production Notice**. This billing includes: the remaining 50% of the Implementation ("County Startup") Amount and the remaining 80% of the Annual Maintenance Amount.

If the Customer fails to execute its responsibilities under **Deliverable C-05 Customer Verification Plan** after thirty (30) business days, then Appriss shall notify the OAG of such Customer failure and Customer shall have an additional thirty (30) business days to execute **Deliverable C-05 Customer Verification Plan**. If after the additional thirty (30) business day period Customer has not executed its responsibilities under **Deliverable C-05 Customer Verification Plan**, then Payment Milestone 2 may be billed to Customer. If the Customer identifies errors or problems through its execution of **Deliverable C-05 Customer Verification Plan**, then Payment Milestone 2

⁷ based on Payment Milestones subsection of the Service Price section of the Vendor Certification.

⁸ vendor is eligible to invoice customer upon the successful implementation of the county infrastructure.

⁹ Appriss is eligible to invoice the customer upon the delivery of a fully tested, operational and installed service based on the customer's verification.

will not be billed until the errors and problems are corrected to Customer's satisfaction.

Under any of the above instances, the service period will begin when the Services are actually available to the public and the Services will continue for twelve (12) consecutive months.

4. Other Potential Costs

Out of Scope Costs¹⁰

Additional costs will be incurred for out of scope work. There will only be three events that constitute out of scope work: (1) if Customer moves their facility requiring Appriss to move interface equipment and telephone lines, then a site move charge will not to exceed \$1,500; (2) if Customer changes its booking system and replaces it with another system for which the Appriss has already built an interface, then there will be a one time charge not to exceed \$3,000; and (3) third if Customer changes its booking system and replaces it with another system for which the Appriss has not built previously an interface then there will be a one time charge not to exceed \$5,000.

1. Customer Facility Move

*2. Change of Booking
System to vendor-standard
system*

*3. Change of Booking System
to non-Vendor-standard
system*

not-to-exceed \$1,500

not-to-exceed \$3,000

not-to-exceed \$5,000

Additional Services¹¹

Any services, not covered by this Agreement and provided by Appriss shall be billed to Customer at the following rates:

Standard Hourly rate

not-to-exceed \$160 / hour

Overtime Hourly Rate

not-to-exceed \$175 / hour

¹⁰ based on subsection V. *Out of scope cost for county changes in the Service Price section of the Vendor Certification.*

¹¹ prices as defined in the Appriss's Price Proposal dated August 15th, 2002.

5. Annual Maintenance Amounts for Renewal Terms.

Subject to the terms and conditions included in the Agreement, the Annual Maintenance Amounts for Renewal Term(s) shall not exceed the following:

1st Optional Renewal Term. The cost of Annual Maintenance for the **1st Optional Renewal Term** shall not exceed Thirty Two Thousand Three Hundred Fifty (\$32,350) DOLLARS.

2nd Optional Renewal Term. The cost of Annual Maintenance for the **2nd Optional Renewal Term** shall not exceed Thirty Two Thousand Three Hundred Fifty (\$32,350) DOLLARS.

3rd Optional Renewal Term. The cost of the **3rd Optional Renewal Term** shall not exceed Thirty Two Thousand Three Hundred Fifty (\$32,350) DOLLARS.

4th Optional Renewal Term. The cost of the **4th Optional Renewal Term** shall not exceed Thirty Two Thousand Three Hundred Fifty (\$32,350) DOLLARS.

6. Services After Termination. Subject to the terms and conditions included in the Agreement, the cost of Services provided by Appriss to the Customer shall be governed by the following payment terms. Following either the expiration or termination of this Agreement, then Customer shall pay Appriss an amount equal to 1/12th the then current Annual Maintenance Fee, for each month that the Customer elects to receive the Services. Customer may elect to receive the Services for any increment of months up to the maximum time period stated in the Agreement.

Texas VINE SERVICES AGREEMENT

Williamson County



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SERVICES AGREEMENT

THIS SERVICES AGREEMENT, including all Exhibits and Schedules attached hereto and incorporated herein by reference (the Agreement) is made and entered into as of the ____ day of _____, 2003, by and between Williamson County hereinafter referred to as 'Customer' and Appriss, Inc., a Delaware Corporation authorized to do business in Texas with offices located at 10401 Linn Station Road, Suite 200, Louisville, KY 40223 hereinafter referred to as 'Appriss'. Customer and Appriss may be referred to in this Agreement individually as a "Party" and collectively as the "Parties."

1. INDUCEMENTS; CONSTRUCTION OF AGREEMENT

1.1 *Inducements*

Customer is a governmental entity, officer or political subdivision of the State of Texas and desires to provide crime victim notification services to the citizens and residents of [county, Texas]. Appriss is in the business of providing crime victims notification services to states, political subdivisions of states and the federal government.

The Customer expects Appriss to provide substantive notification to victims of crime regarding events relevant to victims of violent crime including but not limited to events in the prosecution, incarceration and release of persons charged or convicted of violent crime in Texas. Customer expects Appriss to notify the interested citizens of these relevant events through prompt automated or personal telephone calls, and /or correspondence regarding events relevant to victims of violent crime including but not limited to events in the prosecution, incarceration and release of persons charged or convicted of violent crime in Texas. Customer expects that victims will be able to register for the notification Services through a single 24-hour toll-free telephone number and to register for the Services through the internet. Customer also expects that victims will be able to request and receive relevant information by calling the 24-hour toll-free telephone number. Customer expects Appriss to make this Service available to the public 24-hours a day, 365 days per year.

Customer is relying on Appriss's factual representations that it has substantial expertise in providing such Services, and based on such representations, desires Appriss to provide the Services for the protection and benefit of the citizens of the State of Texas.

1.2 *Construction of Agreement*

The provisions of this Section 1 are intended to be a general introduction to this Agreement, and to the extent the terms and conditions of this Agreement do not address a particular circumstance or are otherwise unclear or ambiguous, such terms and conditions are to be interpreted and construed consistent with the objectives, expectations and purposes stated in this Section 1. All Exhibits and Schedules attached hereto are hereby incorporated by reference herein in their entirety for all purposes.

NOW, THEREFORE, in consideration of the inducements, covenants, agreements and conditions herein contained, the Parties agree as follows:

2. DEFINITIONS

Acceptance Criteria shall mean the conditions set forth in Section 4.3 relating to Services and related Deliverables, if any, to be provided by Appriss to Customer, and which collectively are the basis for Customer's evaluation of Appriss's performance of such Services and delivery of related Deliverables in accordance with its obligations under the Agreement.

Customer Assets is defined in Section 6.1(2) of this Agreement.

Customer Equipment shall mean Equipment owned, leased or otherwise under the control of Customer.

Customer Software shall mean Software owned by Customer or licensed to Customer by a party other than Appriss.

Change Order is defined in Section 4.8(B) of this Agreement.

Change Order Procedure is defined in Section 4.8(A) of this Agreement.

Change Order Response is defined in Section 4.8(B) of this Agreement.

Changes is defined in Section 4.8(A) of this Agreement.

Critical Systems shall mean the systems identified as critical by Customer in Exhibit S-01 and Exhibit C-06 to this Agreement.

Deliverable shall mean the Service or related product(s) that Appriss agrees to provide under the terms and conditions of this Agreement.

Documentation shall mean the user manuals and any other materials in any form or medium customarily provided by Appriss to the users of the related Software, and which will provide to users sufficient information to properly operate, diagnose and maintain such Software safely and efficiently.

Developed Software is defined in Section 14.4 of this Agreement.

Equipment shall mean the computers, hardware and related equipment used in connection with the delivery or receipt of Services hereunder, including central processing units and other processors, controllers, modems, communications and telecommunications equipment (including, but not limited to, voice, data and video), cables, storage devices, printers, terminals, other peripherals and input and output devices, and other tangible mechanical and electronic equipment intended for the processing, input, output, storage, manipulation, communication, transmission, and retrieval of information and data.

New Technology is defined in Section 4.18 of this Agreement.

Product(s) shall mean any Equipment, Software, Service, communications hardware or Software, or Supply Item offered by Appriss. For this purpose, "Supply Item" includes any cards, paper, ribbons, magnetic tape, other magnetic storage media, optical media, and similar items that are used or required to operate the Products acquired by Customer under this Agreement.

Service Levels shall mean the required availability, response, response times, or other performance standards of Section 4 of this Agreement.

Services includes but is not limited to the description stated in Section 1 and any programming service, preventive maintenance, remedial hardware maintenance, software maintenance, conversion service, support service or other service provided by Appriss to Customer under this Agreement.

Software shall mean the source code and object code versions of any application programs, operating system software, computer software languages, utilities and other computer programs, and Documentation and other supporting materials thereto, in whatever form or media, used in connection with the delivery or receipt of Services hereunder, including the tangible media upon which such application programs, operating system software, computer software languages, utilities and other computer programs, and Documentation and supporting materials relating thereto are recorded or printed, together with all corrections, improvements, updates and releases thereof.

Appriss Change Order Request is defined in *Section 4.8(C)* of this Agreement.

Appriss Equipment shall mean Equipment owned, leased or otherwise under the control of Appriss.

Appriss Software shall mean Software owned by Appriss or which is Appriss Third-Party Software.

Appriss Third-Party Software shall mean Software owned by a party other than Customer or Appriss and which is licensed to Appriss.

Termination Assistance Period is defined in *Section 19.1(3)* of this Agreement.

Time and Materials (T&M) Rate is defined in *Section 5.12* of this Agreement.

Term shall mean the Initial Term and Renewal Term, collectively.

3. TERM

3.1 Initial Term; Renewal; Cancellation

The initial term of this Agreement shall commence on _____ and terminate August 31, 2004. If the Customer has tendered payment on or before August 31, 2004 pursuant to Payment Milestone No. 2 (Production Notice), then Appriss shall continue provide the Services for twelve (12) consecutive months from the date that the Services are actually available to the public (hereinafter referred to as the 'Initial Term'). The Initial Term or any Renewal term is subject to earlier termination and termination in accordance with the provisions of this Agreement.

Customer, in its sole discretion, shall have the option to renew this Agreement for an additional successive one year terms through August 31, 2007 (hereinafter referred to as the 'Renewal Term') upon the same terms and conditions as set forth herein by providing written notice to Appriss at any time prior to the expiration of the Initial Term. Customer may exercise its option to renew each year by providing a letter advising Appriss of Customer's intent to renew. Such letter notice shall be delivered with the formalities required by Section 20.7 Notices.

In the event Customer does not elect to extend the term of this Agreement, the provisions of Section 20.18 hereof (Rights Upon Orderly Termination) shall apply.

4. SCOPE

4.1 Scope of Services

Appriss has substantial expertise in performing Services and/or providing Products relating to crime victim notification, and agrees to perform such Services and/or provide such Products in a good and workman like manner that meets Customer's objectives as

stated herein and otherwise adds value to and/or improves the performance of Customer's expectations, objectives and purposes as stated in Section 1. The Services are further described in the following Exhibits:

- S-01 Service Specification
- S-11 Service Level Standards
- S-12 Service Performance Reports
- V-01 Vendor Certification

Appriss shall provide as part of the Services, the following Customer Deliverables, as explained in Exhibit V-01 Vendor Certification:

- C-01 County Questionnaire
- C-02 County Implementation Plan
- C-03 County Infrastructure
- C-04 Application Interface
- C-05 Customer Verification Plan
- C-06 County Support Document
- C-07 County Promotions Package
- C-08 Production Notice
- C-09 County Web Access

4.2 Service Levels

Services provided by Appriss to Customer shall be performed in accordance with all applicable Service Levels as set forth in Exhibit S-11 Service Level Standards to this Agreement for the first twelve months of the period during which the Services are performed by Appriss. As part of its provision of Services to Customer, Appriss shall provide a methodology for continuous improvement that commits to a regular improvement in the Service Levels throughout the period of Appriss's performance. Without limitation on the foregoing sentence, Appriss shall at a minimum, improve the Service Levels for Services performed for Customer under this Agreement on an annual basis to reflect the higher of:

- a. the same level as the Service Level for the previous year, or
- b. a level equal to the actual service levels attained by Appriss during the previous year.

4.3 Acceptance Criteria; Acceptance of Deliverables

Exhibits C-02 County Implementation Plan; C-03 County Infrastructure; C-04 Application Interface; C-05 Customer Verification Plan; C-06 County Support Document; C-07 County Promotions Package; C-08 Production Notice to this Agreement contain certain Acceptance Criteria for Appriss's performance of Products and/or Services and completion of any related Deliverables as agreed to between the Parties. Customer's obligation to compensate Appriss with respect to the performance of Services, delivery of Products or completion of Deliverables under this Agreement shall arise only after Customer has reviewed such Product, Service or Deliverable, performed such acceptance testing as Customer and Appriss have agreed to, and otherwise established that Appriss

has fully performed its obligations under this Agreement with respect to such Product, Service or Deliverable, and that Appriss is not otherwise in default under the Agreement.

4.4 Acceptance of Phases and Stages

Depending upon the nature of the Equipment, Products or Services and related Deliverables being acquired by Customer from Appriss, the Parties may agree and set forth in Exhibit C-02 County Implementation Plan hereto a schedule whereby Appriss shall perform its obligations according to two or more phases or stages. In such event, each such phase or stage of performance shall constitute a separate obligation of Appriss, the performance of which shall be subject to all remedies available to Customer hereunder in the event the applicable acceptance or approval procedures specified in Section 4.3 are not fully satisfied.

4.5 Third-Party Products and Services

Customer shall have the right to contract with a third party to provide any Products and/or Services related to those being provided by Appriss. In the event Customer contracts with a third party for such Products and/or Services, Appriss shall cooperate with Customer and such third party to the extent reasonably required by Customer, including provision of:

- (i) written requirements, standards and procedures for Customer's systems, interface(s), and operations that are maintained by or interact with the Service provided by Appriss so that the enhancements or developments of such third-party may be operated by Appriss;
- (ii) assistance and support Services to such third party at no additional charge; and
- (iii) access to the Products being utilized by Appriss as may be reasonably required by such third party and approved by Customer in connection with Customer's utilization of such third-party Products and/or Services.

Customer shall require such third parties to comply with Appriss's reasonable requirements regarding operations, data center standards, confidentiality and security. Appriss will provide to such third parties or to Customer upon request copies of any such reasonable requirements regarding operations, interface(s), data center standards, confidentiality and security. Appriss will be solely responsible for the Appriss Gateway infrastructure, hardware and software as defined in Deliverable C03-County Infrastructure.

4.6 [Section Deleted]

4.7 Additional Services

During the Term of this Agreement, Customer may desire to obtain Services from Appriss that are not within the scope of Appriss's obligations hereunder (herein after referred to as the 'Additional Services'). As soon as reasonably practicable and in any event within thirty (30) business days after Appriss's receipt of Customer's request for Additional Services, Appriss shall submit to Customer Appriss's proposal for provision of the Additional Services, including Appriss's proposed charges for the Additional Services. Customer may obtain Additional Services from suppliers other than Appriss in Customer's sole discretion.

4.8 Agreement Change Orders

A. During the Term of this Agreement, Customer or Appriss may propose changes in Appriss's obligations hereunder (other than technical or operational changes described herein or other aspects of this Agreement (the Changes)), and all such Changes shall be implemented pursuant to the procedures set forth in this Section (the Change Order Procedures).

B. If Customer desires to propose a Change, it shall deliver a written notice to the Appriss Project Manager describing the Change proposal and establishing a reasonable period for Appriss to respond (Change Order). Appriss shall respond to such proposal within the time stated in the proposal by preparing at Appriss's expense and delivering to the Customer Project Manager a written document (a Change Order Response), indicating:

- (i) the effect of the proposal, if any, on the amounts payable by Customer under this Agreement, which effect shall be determined in the manner set forth in Section 9.9 (Increase in Charges Pursuant to Change Orders) and the manner in which such effect was calculated;
- (ii) the effect of the proposal, if any, on Appriss's performance of its obligations under this Agreement, including the effect on required service levels;
- (iii) the anticipated time schedule for implementing the proposal; and
- (iv) any other information requested in the proposal or reasonably necessary for Customer to make an informed decision regarding the proposal, including the effect of the proposal on Customer's costs and expenses relating to Customer's Obligations.

If Customer accepts the change proposed in the Change Order Response, Appriss shall indemnify and hold harmless Customer from and against any losses, costs or expenses resulting from any inaccurate or incomplete information contained in the Change Order Response, including any unanticipated increases in Customer's costs and expenses under this Agreement or otherwise. A Change Order Response shall constitute an irrevocable offer by Appriss to implement the proposal described therein on the terms set forth therein.

C. If Appriss desires to propose a Change, it shall deliver a written request (Appriss Change Order Request) to Customer, which shall include the information described in Section 4.8(B) for a Change Order and Change Order Response.

D. No Change to the Services or any other aspect of this Agreement shall become effective without the written approval of the Customer's designee with actual authority to bind Customer in contract. If Customer elects to accept Appriss's offer set forth in the Change Order Response or the Appriss Change Order Request, as the case may be, any such Change shall thereafter be deemed part of Appriss's obligations hereunder and this Agreement shall be deemed amended accordingly. Under no circumstances shall Appriss be entitled to payment for any work or Services rendered under a Change Order that has not been approved by Customer in accordance with the Change Order Procedures.

E. Notwithstanding any other provision of this Agreement, Appriss acknowledges that Appriss is expected to accomplish normal and routine tasks associated with its obligations hereunder within the charges provided for in this Agreement. No Appriss Change Order

Requests for additional chargeable resources will be approved by Customer for tasks which Customer deems to be normal and routine tasks, including Changes resulting from changes in federal, state or other laws, regulations, ordinances or policies.

4.9 Substantial Changes and Additional Business Units

4.9.1 Substantial Change in Volume

In the event Customer's use of the Products and/or Services provided by Appriss substantially decreases or increases in volume during the Initial Term or any Renewal Term, and such change in the volume modifies the characterization of Customer's use of the Services from either mega, Large, medium or small, then on the next renewal cycle, Customer and Appriss shall negotiate and implement an appropriate reduction or increase to the compensation due to Appriss hereunder according to the statewide rate as described in Exhibit V-01. In the event Customer and Appriss cannot agree on the amount of a reduction or increase in such compensation, such dispute shall be submitted to dispute resolution pursuant to Section 10.

4.9.2 Additional Business Units

Customer shall have the right to add or relocate sites, entities, facilities or units under this Agreement. Customer shall share information with Appriss to allow Appriss to determine which resources will be required to meet Customer's needs. Appriss shall: (i) formulate a plan to accommodate Customer's needs, without a disruption in service to Customer, in a cost effective manner, and (ii) submit such plan, including any adjustments to the compensation due to Appriss hereunder (such adjustments being limited to the rates or other pricing in effect under this Agreement for similar Products or Services and according to the amounts stated in Exhibit K-01 Schedule of Payments), for Customer's review. Upon Customer's acceptance of the plan, Appriss may adjust its compensation hereunder accordingly. Customer shall not be obligated to obtain the additional Services or Products from Appriss with respect to any additional site, entity or unit (whether acquired or formed by Customer).

4.10 Analysis and Resolution of Problems in Service Levels

Upon (i) Appriss's failure to provide any of the Services in accordance with the Service Levels and for which the cause of such failure is not immediately identified and cured by Appriss; or (ii) Appriss's failure to provide any of the Services in accordance with the Service Levels on more than three (3) separate occasions for any specific Service, whether or not the cause of such failure is immediately identified and cured by Appriss, Appriss shall: (a) perform an analysis to identify the cause of such failure, (b) correct the failure, (c) provide Customer with a report detailing the cause of the failure, and procedure for correcting the failure, and (d) provide Customer with reasonable evidence that such failure will not recur.

4.11 Performance Reports

Appriss shall develop for Customer's approval a set of performance, utilization and status reports (including error logs) which Appriss shall maintain on a periodic basis as requested by Customer. Such reports shall be provided via an on-line graphical information system or such other means as specified by Customer. Appriss shall submit to Customer drafts of the formats to be used in such reports within thirty (30) days after this Agreement becomes effective, and shall implement such reports within sixty (60) days

thereafter. Appriss shall also provide, on a monthly basis and otherwise as reasonably requested by Customer, system availability statistics, including descriptions of the major incidents or system unavailability or errors during the period covered by the report, and proposed procedures for correcting or preventing same. At a minimum, such reports shall be consistent with the reports described in Exhibit S-12 Service Performance Reports.

4.12 Competitive Assessment

Customer or its designee shall have the right, at any time during the Term, to benchmark any of the Services being performed by Appriss to ensure that such Services are competitive with respect to price, quality, service and technology. Customer may consult with Appriss in advance regarding the definition and specifications of each such Service to be benchmarked, provided that Customer shall finally determine such definitions and specifications.

Appriss shall, at Customer's request, prepare and provide, or cooperate with Customer in the preparation of, comparative information and data verifying the competitive nature of the Services being performed or which may be available from Appriss, in such frequency, methodology and detail as required by Customer. Customer agrees to select an experienced benchmarking company that is not generally considered to be a direct competitor of Appriss.

If the written benchmarking report indicates, in Customer's reasonable judgment, that all or part of the Services provided by Appriss are not competitive with respect to price, quality, service or technology, then Customer shall provide Appriss with a copy of the benchmark results. Appriss shall review the benchmark results and discuss any disagreement with Customer within thirty (30) days after Appriss's receipt of the results. At the end of the thirty (30) day review period, Appriss shall have ten (10) days to adjust its Services and/or related fees to meet the benchmark results or such other standards as the Parties may have agreed to during the review period. If Appriss fails to adjust its Services and/or related fees to meet such results or other agreed upon standards, Customer may terminate the Services covered by the benchmarking.

4.13 Technical Change Control

With respect to any changes in the technical environment and systems used by Appriss to provide the Services, Appriss shall comply with the change control requirements set forth in this Section 4.13. Prior to using any new Software or new Equipment to provide the Services, Appriss shall have verified that the item has been properly installed, is operating in accordance with its specifications, and is performing its intended functions in a reliable manner. Appriss shall make no material change in the technical environment and systems used by Appriss to provide the Services, nor shall Appriss make any change which could adversely affect the function or performance of, or decrease the resource efficiency of, the Services, including implementing changes in technology, without first obtaining Customer's approval, which approval Customer may withhold in its sole discretion.

Appriss may make temporary changes required by an emergency if it has been unable to contact the appropriate Customer Project Manager to obtain such approval after making best efforts. Appriss shall document and promptly report such emergency changes to Customer. Appriss shall move programs from development and test environments to production environments in a controlled and documented manner, so that no changes are introduced into the programs during such activity.

4.14 Technical Architecture and Product Standards

In performing the Services, Appriss shall comply with Customer's technical architecture and product standards, unless otherwise expressly agreed by Customer.

4.15 Productivity and Project Management Tools

Appriss shall consult with Customer regarding the use of project management tools, including productivity aids and project management systems. Appriss shall use mutually acceptable project management tools in connection with all Services provided to Customer. The project tasks and project management system will account for associated tasks and all personnel for the performance of the Services by Appriss, including any Customer Obligations and involvement by third parties. Project management tools and productivity aids furnished by Appriss will be made available for use by Customer and personnel of third parties involved in the performance of the Services.

4.16 Disaster Recovery**4.16.1 Appriss Assets**

Appriss shall be responsible for disaster recovery and disruption of services within the Scope of Services for all Appriss Assets and Services delivered directly by Appriss. Appriss Assets include but are not limited to the infrastructure (e.g. equipment, hardware, Appriss Software, Appriss Third-party Software, call center and staff) that is located at Appriss' headquarters and Appriss Assets (e.g. equipment, hardware, telephony, gateway personal computer, Appriss Software and Appriss Third-party Software) located at Customer's site. Appriss disaster recovery plans are found in Exhibit S-01 Service Specification.

4.16.2 Customer Assets

Customer is responsible for disaster recovery of all Customer Assets (e.g. booking system(s), facilities, Customer Software or interfaces on Customer's system(s) developed and maintained by Customer).

4.16.3 Disaster Recovery Planning Assistance

At Customer's request, Appriss will participate in an assessment of Customer's disaster recovery requirements and provide for Customer's approval a reasonable set of alternatives for the development of a viable Customer disaster recovery program, and the estimated fees associated with each alternative, and (b) upon Customer's request, certify or participate in the certification of the disaster recovery plan then in effect for each Customer site or facility to which such plan relates.

1. Immediately provide Customer with a notice of a disruption of service and direct them to the procedures in C06 for handling such disruption
2. Use its best efforts to restore the Critical Systems immediately, but in any event within the period of time set forth in the S11 - Service Level Standards. In the event of a disaster, Appriss shall not charge Customer any additional usage fees unless expressly set forth in the disaster recovery plan approved by Customer. Further Appriss shall provide a pro rate refund to Customer for Appriss' failure to comply with this Section.

4.16.4 Interim Solution during Disruption of Services

During any period where services are disrupted from a disaster or from some other cause, the Emergency Override Line (EOL) procedures shall be implemented as described in Exhibit S-01 Service Specification.

4.16.5 Force Majeure Event.

Whenever a Force Majeure Event (as defined in Section 20.6) or a disaster causes Appriss to allocate limited resources between or among Appriss' customers, Customer shall receive no less priority in respect to such allocation than any of Appriss' other customers.

4.17 Satisfaction and Performance Reviews

Customer or its designee shall have the right to develop, adopt and implement on at least an annual basis Customer and/or user satisfaction surveys, Appriss performance reviews, and any other surveys or reviews as deemed appropriate by Customer. The content, scope, method and timing of such surveys and reviews shall be developed by Customer. Appriss shall (i) support such surveys and reviews to the extent requested by Customer, and (ii) work with Customer to increase Customer and/or user satisfaction and Customer and/or user performance on an ongoing basis. At Customer's request, Appriss shall meet with and discuss with Customer the results of such surveys and reviews, and shall prepare a plan for improvement of Customer satisfaction and performance. Such surveys and reviews, and Appriss's assistance to Customer in improving Customer and/or user satisfaction and performance, shall be factors to be considered by Customer in evaluating Appriss's qualifications relative to the performance of additional Services under the Agreement.

4.18 New Technology Replacement

Customer and Appriss recognize that Appriss will develop and market new victim notification Products (New Technology) that are designed to enhance or replace the Products and/or Services provided for in this Agreement. To accommodate each Party's requirements, and subject to the approval of the Statewide Stakeholders workgroup Appriss agrees to include the New Technology as part of its Product offerings within the terms provided for in this Agreement. Customer's acquisition of New Technology will be included in any pricing discounts for Product or purchase volumes stated within this Agreement.

4.19 Continuous Improvement and Best Practices

Appriss shall:

1. On a continuous basis, as part of its total quality management process, identify ways to improve the quality, Services, pricing and technology available to Customer hereunder, and
2. Identify and apply proven techniques and tools from other installations within its operations that would benefit Customer either operationally or financially.

Appriss shall use commercially reasonable efforts to advise Customer of any new developments relating to its obligations to Customer hereunder, and shall, upon Customer's request, assist in the evaluation and testing of such developments in connection with the performance of such obligations. Without limiting the foregoing, Appriss shall inform Customer of any new Information Technology Services, Products and

processes Appriss is developing or Information Technology trends and directions of which Appriss is aware which may be relevant to Customer's business.

4.20 *Dedicated/Shared Environment*

Appriss shall perform its obligations hereunder using Products and/or Services dedicated solely to supporting Customer and other Texas customers, unless otherwise set forth in this Agreement. Appriss may propose during the Term hereof that Customer share such Products and/or Services that are dedicated solely to supporting Customer with other out-of-state customers of Appriss. Appriss shall make no material change in the technical environment and systems used by Appriss to provide the Services, nor shall Appriss make any change which could adversely affect the function or performance of, or decrease the resource efficiency of, the Services, including implementing changes in technology, without first obtaining Customer's approval, which approval Customer may withhold in its sole discretion.

4.21 *Information Gathering Practices*

Appriss agrees that its acquisition of information on behalf of Customer shall be in compliance with all applicable laws and regulations and shall be in compliance with the ethical principles set forth in Customer's employee handbook, policies or related guidelines for the conduct of its employees.

5. RELATIONSHIP BETWEEN CUSTOMER AND APPRISS

5.1 *Appriss Visits to Customer*

In addition to and without limitation on Appriss' other obligations hereunder, Appriss will, at Appriss' expense and upon request by Customer, visit Customer's designated location as Customer may reasonably request. Appriss personnel will include, but not be limited to, Product development specialists and/or other such technical specialists as requested by Customer.

5.2 *Customer's Visits to Appriss*

In addition to and without limitation on Customer's other obligations hereunder, Customer may elect, at Customer's expense, to visit Appriss's facilities no less than twice annually. Appriss will make available, at Appriss's expense, technical specialists as determined by Customer and Appriss to discuss Appriss's technical strategic direction. Such visits may include Appriss's development laboratory so that Customer may participate in discussions relevant to the development of new technologies which might be utilized in Customer's Information Technology environment and otherwise to assist in the evaluation of Customer's future needs for Information Technology Products and Services.

5.3 *Key Appriss Personnel*

Certain individuals will have access to Customer's plans and confidential information as a requirement for fulfilling their duties, and Customer will become dependent on these individuals for advice and expertise (Key Appriss Personnel). Upon at least thirty (30) days prior written notice to Appriss, Customer shall be entitled to require Appriss to replace any of the Key Appriss Personnel upon the conclusion of such thirty (30) day period. Such right may be exercised by Customer in its sole discretion, including without limitation upon a determination that any individual simply is not compatible with Customer personnel. Appriss will make it's best efforts to minimize changes in Key Appriss

Personnel. Key Appriss Personnel may be temporarily replaced by Appriss for absences due to vacations, illness, accident or other events outside of Appriss's control.

5.4 Appriss Personnel

Customer reserves the right to review Appriss's personnel qualifications for applicability to the requested Services. Customer reserves the rights to perform or to have Appriss provide criminal background verifications for Appriss's personnel. In addition, Customer reserves the right to have Appriss personnel replaced on the account if, in Customer's sole opinion, the person does not meet the qualifications for the task, project or other duties assigned.

5.5 Removal for Cause

Customer may require Appriss to remove an individual immediately from the assignment to perform any task, project or other duties hereunder, for reasons included but not limited to violation of the terms and conditions of this Agreement, including the violation of Customer's policies, rules and regulations; violation of local, state, federal or municipal statutes; or where said individual is engaged in activities that could be detrimental to Customer or Customer's personnel. Customer's sole liability to Appriss when Appriss personnel are removed under the provisions of this paragraph will be for the payment of any outstanding valid invoices submitted to Customer by Appriss covering the period to the time of Customer notifying Appriss to remove said personnel.

5.6 No Effect on Warranties

Customer's selection and use (or nonuse) of its rights and remedies regarding Appriss Key Personnel and other Appriss personnel shall not affect in any way Appriss's responsibilities, liabilities, or warranties under this Agreement.

5.7 Individual Confidentiality

Appriss agrees, at the Customer's request, that prior to assigning any personnel to perform any part of Appriss's obligations hereunder, whether or not such individuals are designated as Key Appriss Personnel, such personnel shall be required to execute an Individual Confidentiality Agreement which, upon execution, shall be attached to this Agreement and incorporated herein. Appriss shall cause the agreements to be executed in duplicate, with one (1) copy to be retained by Appriss and the other to be retained by Customer.

5.8 Site Rules and Regulations

Appriss and its employees and agents, while on Customer's premises, shall comply with Customer's site rules and regulations.

5.9 Independent Obligation of Appriss to Continue Performance

Because of the critical importance of the obligations undertaken by Appriss hereunder to the operations of Customer and the substantial expertise (not otherwise possessed by Customer) which Appriss has represented it will utilize in connection with the fulfillment of its obligations and the reliance of Customer on such expertise for the fulfillment of its objectives, Appriss assumes an independent obligation to continue performance of its obligations hereunder in all respects regardless of any dispute that may arise between Customer and Appriss in connection with any claims by Appriss that Customer has materially breached its obligations hereunder.

Such independent obligation shall continue for ninety (90) days from the date upon which Customer receives written notice of such alleged breach from Appriss. Appriss undertakes this independent obligation without prejudice to any rights or remedies it may otherwise have in connection with any dispute between Appriss and Customer.

5.10 Subcontractors/Appriss's Agents

Appriss shall not subcontract any portion of its obligations hereunder without Customer's prior written consent. Customer's consent with respect to any subcontracting shall not relieve Appriss of its responsibility for the performance of any of its obligations hereunder or constitute Customer's consent to further subcontracting.

Appriss shall retain responsibility for the acts or omissions of all of its employees, agents and representatives in connection with the performance of its obligations hereunder. Appriss shall be responsible for all payments to, and claims by, such employees, agents and representatives relating to performance or nonperformance under this Agreement. Customer, in its sole discretion, shall approve all Appriss employees, agents and representatives requiring access to any Customer site or facility.

5.11 Customer Access to Appriss Personnel

Without limitation on any other obligation of Appriss or right of Customer hereunder, Appriss agrees that it shall, upon Customer's request, provide to Customer equal access to Appriss's specialized technical personnel and resources consistent with access provided to Appriss's other customers.

5.12 Appriss Personnel and Rates

Additional Services performed by Appriss Personnel shall be billed at rates not-to-exceed the rates described in Exhibit K-12.

5.13 Holidays and Weekends

In the event that Customer elects to use Additional Services, Customer and Appriss agree that Customer shall not be billed for days worked on holidays and weekends unless prior approval is received from the Customer Project Manager. Customer and Appriss further agree that Customer will not be billed for any Appriss personnel at a daily rate higher than that agreed as the maximum daily rate less applicable discounts.

5.14 Partial Days

In the event that Customer elects to use Additional Services, Customer and Appriss agree that partial days (with a "day" being defined as equal to eight (8) hours work) may be billed when Appriss personnel are not able to work a full day on a regular scheduled day for any reason, or when a full day is not required on a non-scheduled day such as a holiday or weekend (as approved by Customer). Such partial days will be calculated so that Customer will be billed for one fourth (1/4) of a day when Appriss personnel work up to three (3) hours, or one half (1/2) of a day when Appriss personnel work more than three (3) hours but less than five (5) hours.

5.15 Appriss's Best Efforts to Minimize Time and Materials Charges

Appriss shall use its best efforts to complete each assigned task in as economical a manner as possible and to minimize any time and materials charges incurred in connection therewith to the maximum extent possible, consistent with Appriss's other obligations under this Agreement.

6. CUSTOMER OBLIGATIONS

6.1 *Customer Obligations*

1. To the extent allowed by law or allowed by Customer's other contracts, Customer shall provide Appriss with access to all Customer Software, the use of which is necessary or appropriate in connection with the performance of Services, and will cooperate with Appriss to help Appriss secure the necessary approvals and/or consents from third parties for the use of Software owned by such third parties and the use of which is necessary or appropriate in connection with Appriss's performance of Services.
2. All assets owned, leased or otherwise held by Customer during the Term (Customer Assets) shall at all times remain the property of Customer. Appriss shall have access to and use of the Customer Assets and such ability to manage the Customer Assets as may be necessary or appropriate to enable Appriss to perform its obligations properly hereunder.
3. To the extent allowed by law or allowed by Customer's other contracts, Customer shall provide Appriss with access to all Customer Confidential Information and other data and information as reasonably requested by Appriss and the use of which is necessary or appropriate in connection with the performance of the Services, and will otherwise cooperate with Appriss in connection with Appriss's performance of the Services.
4. Customer shall assign an individual who will act as the primary point of contact for Appriss with respect to each Party's obligations under this Agreement (Customer Project Manager as further defined in Section 6.3.1).
5. Customer shall provide those Appriss personnel to whom Customer consents with access to Customer sites or facilities during normal working hours as is appropriate to its responsibilities hereunder upon compliance with all Customer security and safety policies of general applicability in effect at such Customer sites or facilities. If Appriss personnel require access to a Customer site or facility outside of normal working hours, Appriss shall request the necessary security clearance from Customer, and Customer shall not unreasonably withhold such clearance.
6. Customer shall be responsible for providing, to those Appriss personnel, if any, to whom Customer consents to be located on Customer's premises in connection with the Appriss's performance hereunder, office space and office furnishings, janitorial services and utilities (including air conditioning) in connection with such office space. All such space, furnishings and utilities shall be consistent with those that Customer provides to its own similarly situated personnel. Appriss may not provide Services to other customers from space provided by Customer without Customer's consent. Customer shall have the option during the Term hereof to relocate Appriss personnel located on Customer's premises to another, comparable location or facility.
7. Customer shall have no obligations hereunder except as listed in this Section or otherwise specifically set forth herein (Customer Obligations). Customer shall have no other responsibilities or obligations hereunder other than the Customer Obligations which it must perform as a condition to the full and timely performance by Appriss of its obligations under this Agreement. No language or provision of any document or correspondence delivered by Appriss to Customer prior to or

during the Term hereof (including Appriss's Proposal) shall be deemed or construed as expanding, adding to or altering the Customer Obligations.

6.2 Continuation of Services

Customer and Appriss each acknowledge that the provision of the Services as agreed to by the Parties is critical to the business and operations of both Customer and Appriss. Accordingly, in the event of a fee dispute between Customer and Appriss pursuant to which Customer in good faith believes it is entitled to withhold payment or for which either Party in good faith believes payment is due, Appriss shall continue to perform its obligations and Customer shall continue to pay Appriss as set forth in Section 9.7.

6.3 Mechanism to Identify and Avoid Certain Problems

6.3.1 Project Managers

Customer and Appriss shall each designate in writing one individual to serve as its Project Manager during the Term of this Agreement. This individual (Customer Project Manager or Appriss Project Manager as appropriate) shall be deemed to have authority to issue, execute, grant or provide any approvals, requests, notices or other communications required hereunder or requested by the other Party. This authority does not include the authority to amend or modify this Agreement.

6.3.2 Review Meetings and Progress Reports

During the Term hereof, and as requested by Customer's Project Manager, the Customer Project Manager and Appriss Project Manager, as well as additional personnel involved in the performance of this Agreement, shall meet at a location designated by Customer, or at Customer's option, conduct a telephone conference call, to discuss the progress made by Appriss and Customer in the performance of their respective obligations during the period since the most recent meeting for such purpose.

In order to facilitate proper management of the performance of this Agreement, Appriss shall, at each such meeting, provide Customer with a written Notice, sent to the customer return receipt requested and included in the next Statewide Implementation Status Report, in which Appriss identifies any problem or circumstance encountered by Appriss, or which Appriss gained knowledge of during the period since the last such status report (including, without limitation, the failure of Customer to perform, any delay of Customer in performing, or the inadequacy in the performance of Customer of any Customer Obligation) which (i) may prevent or tend to prevent Appriss from completing any of its obligations hereunder, or (ii) may cause or tend to cause Appriss to generate charges in excess of those previously agreed to by the Parties. Before performing any Service that will result in excess charges, Appriss shall identify the amount of excess charges, if any, and the cause of any identified problem or circumstance and steps taken or proposed to be taken by Appriss to remedy same.

6.3.3 Effect of Appriss's Failure to Identify Certain Problems

In the event Appriss fails to specify in writing any problem or circumstance referred to in subsection 6.3.2 with respect to the period during the Term hereof covered by Appriss's status report, it shall be conclusively presumed for purposes of this Agreement that no such problem or circumstance arose during such period, and Appriss shall not be entitled to rely upon such problem or circumstance as a purported justification for either: (i) claiming it is entitled to receive any amount (including without limitation damages or

additional charges arising out of a breach by Customer of Customer Obligation) with respect to any of Appriss's obligations hereunder in excess of those previously agreed to; or (ii) failing to complete any of Appriss's obligations hereunder. Submission by Appriss of the status reports pursuant to subsection 6.3.2 shall not alter, amend or modify Appriss's or Customer's rights or obligations pursuant to any provision of this Agreement.

6.3.4 Effect of Customer's Failure to Perform Customer Obligations

For any problem or circumstance included in any Appriss status report and which Appriss claims was the result of Customer's failure or delay in discharging Customer Obligation, Customer shall review same and determine if such problem or circumstance was in fact the result of such failure or delay. If Customer agrees as to the cause of such problem or circumstance, then the performance time shall be considered extended for a period of time equivalent to the time lost because of such delay. Other than such extension of time, Customer shall not be liable to Appriss for delay to Appriss' work by the act, neglect or default of the Customer, its agents, employees or designees, or any cause beyond Customer's control.

7. CUSTOMER REPRESENTATIONS AND WARRANTIES

Customer represents and warrants that:

8. It is a county or political subdivision of the State of Texas.
9. It has the authority to execute, deliver and perform its obligations hereunder.
10. The execution, delivery and performance of this Agreement has been duly authorized by it.
11. It shall comply with all laws and regulations applicable to Customer and shall obtain all applicable permits and licenses required of Customer in connection with its obligations hereunder.
12. Subject to Customer's duties or responsibilities imposed by law, including but not limited to the Texas Public Information Act, it has not disclosed, nor will it disclose, any Appriss Confidential Information.

EXCEPT FOR THE EXPRESS WARRANTIES MADE OR REFERENCED IN THIS AGREEMENT, CUSTOMER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE SUBJECT MATTER OF THIS AGREEMENT.

8. APPRISS WARRANTIES

Appriss represents and warrants that:

13. It is a corporation duly incorporated, validly existing and in good standing.
14. It has all requisite corporate power and authority to execute, deliver and perform its obligations hereunder.
15. It is duly licensed, authorized or qualified to do business and is in good standing in every jurisdiction in which a license, authorization or qualification is required for the ownership or leasing of its assets or the transaction of business of the character transacted by it except when the failure to be so licensed, authorized or qualified would not have a material adverse effect on Appriss's ability to fulfill its obligations hereunder.
16. The execution, delivery and performance of this Agreement has been duly authorized by it.

17. It shall comply with all applicable laws and regulations applicable to Appriss and shall obtain all applicable permits and licenses required of Appriss in connection with its obligations hereunder.
18. It has not disclosed, nor will it disclose, any Customer Confidential Information.
19. All software proprietary to Appriss and which is to be used in connection with the Appriss's performance hereunder does not and will not infringe upon the proprietary rights of any third party (except as may be caused by a modification by Customer or Customer's combination, operation or use with devices, data or programs furnished by Customer and not approved or authorized by Appriss).
20. It is not a party to any agreement with a third party, the performance of which is reasonably likely to adversely affect the ability of Customer or Appriss to fully perform their respective obligations hereunder.
21. It is not a party to any pending litigation, the resolution of which is reasonably likely to adversely affect the ability of Customer or Appriss to fully perform their respective obligations hereunder, nor is any such litigation reasonably contemplated. Appriss agrees to inform Customer in the event any such litigation occurs or becomes reasonably contemplated during the Term hereof.
22. It has read and fully understands this Agreement and the Parties' rights and obligations hereunder.
23. It has been fully informed of and will comply with all Customer physical security policies and procedures, Customer's policies and procedures regarding security and safeguarding of Customer Confidential Information and other Customer proprietary materials, and Customer's procurement policies and procedure as such policies and procedures apply to Appriss's provision of Products and/or Services hereunder. It will perform all services in a manner that complies with all of the above policies and procedures.
24. It has informed all subcontractors of the terms and conditions of this Agreement, and such subcontractors have agreed to be bound by such terms and conditions (provided that such agreement shall in no way limit Appriss's responsibility for the performance of Appriss's obligations hereunder).
25. It will perform the Services in accordance with high professional standards in the applicable area or areas of expertise required to perform such Services, all Appriss personnel shall be fully qualified to perform the tasks assigned them and shall be in compliance with all immigration laws, and all Appriss personnel shall be legally qualified to work and receive compensation in the jurisdiction in which they are employed. If there are no applicable or recognized professional standards in the applicable area or areas of expertise required to perform such Services, then Appriss will perform all Services in a good and workman like manner, which also is to say that Appriss has completed the job, work or provided the Service and has substantially performed his job, work or provided the Service, for if the job, work or provided the Service is not complete and is not substantially complete, it does not meet the test of being good and workmanlike.
26. All Software developed, provided or used by Appriss in performance of the Services shall be compatible with equipment and applicable hardware and software platforms, upgrades and interfaces used by Customer.

27. The Services shall be free from defects in performance or material, shall conform strictly to the Service Levels and other requirements of this Agreement, and shall be fit and sufficient for the purposes expressed in, or reasonably inferred from, this Agreement. Without limitation on any other rights of Customer hereunder, Appriss further warrants that in the event of its failure to fulfill all or part of the warranty in this item (15) at any time during the period Appriss is providing Services to Customer, Appriss shall take all necessary or appropriate actions to correct such failure, at no cost to Customer. Appriss will use its best efforts and correct any such failure as promptly as practicable in the most expeditious manner practicable.
28. It shall have, as of the effective date of this Agreement and throughout the applicable period of performance of Services, free and clear title to, and the right to possess, use sell, transfer, assign, license, or sublicense, any and all Equipment and software Products that are sold, licensed or otherwise provided to Customer in connection with Appriss's performance of Services hereunder.
29. With respect to any Service hereunder, Customer shall be entitled to possess and use such Service during the period in which such Services are being performed by Appriss, without interruption by Appriss or any person claiming by or through Appriss, provided only that Customer shall duly perform its obligations pursuant to this Agreement.
30. No software developed, provided or used by Appriss in performance of the Services shall, unless authorized in advance by Customer: (i) contain hidden files; (ii) replicate, transmit or activate itself without the control of a person operating the computing equipment on which it resides; (iii) contain any key, node lock, time-out or other function, whether implemented by electronic, mechanical or other means, which restricts or may restrict use or access to any programs or data developed, provided or used under this Agreement, based on residency on a specific hardware configuration, frequency or duration of use, or other limiting criteria.

Provided and to the extent any program has any of the foregoing attributes, and notwithstanding anything elsewhere in this Agreement to the contrary, Appriss shall be in default of this Agreement, and no cure period shall apply. In addition to any other remedies available to it under this Agreement, Customer reserves the right to pursue any civil and/or criminal penalties available to it against Appriss.

Appriss agrees, in order to protect Customer from damages which may be intentionally or unintentionally caused by the introduction of Illicit Code to Customer's computer network, no software will be installed, executed, or copied on Customer equipment without the express approval of the Customer Program Manager.

EXCEPT FOR THE EXPRESS WARRANTIES MADE OR REFERENCED IN THIS AGREEMENT, Appriss MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE.

9. CHARGES; INVOICING

9.1 *Maximum Liability of Customer*

The parties stipulate and agree that the total liability of Customer to Appriss in consideration of full, satisfactory and timely performance of all its duties, responsibilities, obligations, liability, and for reimbursement of all expenses, if any, as set forth in this

Agreement or arising out of any performance herein shall not exceed Seventy Seven Thousand Eight Hundred Ninty AND NO/100 (\$77,890) DOLLARS for the Term of this Agreement. The parties stipulate and agree that any act, action or representation by either party, their agents or employee that purport to increase the liability of the Customer is void, without first executing a written amendment to this Agreement and specifically amending this section. The parties acknowledge and agree that nothing in this Agreement will be interpreted to create an obligation or liability in excess of the funds currently stated in this Agreement.

The parties acknowledge, stipulate and agree that funding for these Services and this Agreement is subject to the actual receipt of grant funds from the Office of the Attorney General and such funds are sufficient satisfy all of Customers duties, responsibilities, obligations, liability, and for reimbursement of all expenses, if any, as set forth in this Agreement or arising out of any performance pursuant to this Agreement. The parties further understand, acknowledge, stipulate and agree that the grant funds, if any, received from the Office of the Attorney General are limited by the term of each state biennium and by specific appropriation authority to the Office of the Attorney General for the subject matter of this Agreement. Notwithstanding the forgoing, Customer at Customer's sole option, may elect to fund the Agreement from sources of funding independent of monies received from the Office of the Attorney General. Such Customer's option shall be made by written notice to Appriss and such notice may only be made by such Customer's officer or employee with such legal and express authorization to contractually bind Customer.

The parties stipulate and agree that Appriss shall not have any third-party or third-party beneficiary claim or cause of action directly or indirectly, for specific performance or money, against the Office of the Attorney General.

9.2 Schedule of Payments

In consideration of full, complete, satisfactory and timely performances by Appriss as contemplated by the terms and conditions of this Agreement, the Customer shall pay Appriss according to the terms and conditions of the Agreement and at such times as limited by Section 9, according to Exhibit K-01 Schedule of Payments.

9.3 Application of Charges

Customer will determine the applicability of charges by the following criteria: (i) except as otherwise expressly stated in this Agreement, no Service or related Deliverable shall be deemed to be accepted by Customer and Customer shall have no obligation to Appriss for any payment unless and until Customer has notified Appriss of its acceptance of such Service or Deliverable and all other requirements prerequisite to payment have been complied with as provided for under this Agreement; and (ii) Customer shall not be billed or liable for any charges or expenses other than those charges or expenses stated and expressly authorized in this Agreement.

9.4 Most Favored Customer

Notwithstanding any other provision of this Agreement, all of the prices, benefits, warranties and terms granted by Appriss to Customer pursuant to this Agreement are hereby warranted by Appriss to be comparable to, or more favorable than, the comparable prices, benefits, warranties and terms that:

31. have been offered by Appriss to any of its other customers for the provision of substantially similar services during the period August 31, 2001 to the effective date of this Agreement; and

32. are being offered and/or will be offered by Appriss to any of its other customers for the provision of substantially similar services during the Term hereof.

If at any time during the periods stated in subparagraphs (1) or (2) above, Appriss shall contract, or have contracted, with any other customer for the purchase, lease, rental, license, service, or other delivery of services substantially similar to those to be performed pursuant hereto, on a basis that provides prices, benefits, warranties or terms to the customer more favorable than those provided to Customer hereunder, then:

(i) Appriss shall, within thirty (30) calendar days after the effective date of such other contract, notify Customer in writing of such fact, explaining the more favorable basis in detail; and (ii) regardless of whether such notice is sent by Appriss or received by Customer, this Agreement shall be deemed to be automatically amended, effective retroactively to the effective date thereof, to provide the more favorable prices, benefits, warranties or terms to Customer; provided, however, that Customer shall have the right and option at any time to decline to accept any such change, in which event such automatic amendment shall be deemed to be null and void effective retroactively to the effective date of this Agreement.

Upon Customer's request, Appriss shall provide to Customer a written certificate, signed by an executive officer of Appriss, certifying that this Section 9.4 has not been contravened by any transaction entered into by Appriss since the later of (i) the effective date of this Agreement, or (ii) the date of the most recent certification provided by Appriss pursuant to this Section 9.4. If Appriss fails to provide such a certificate promptly because of a transaction entered into by Appriss contravening this Section 9.4, this Agreement shall be deemed automatically amended in the same manner and subject to the same conditions as described in the preceding paragraph as if Appriss had given notice of such a more favorable transaction.

9.5 Right of Set-Off

With respect to any amount which (i) should be reimbursed to a Party, or (ii) is otherwise payable to the Party pursuant to this Agreement, such Party may, upon notice to the other Party, deduct the entire amount owed to such Party against the charges otherwise payable or expenses owed to the other Party pursuant to this Agreement.

9.6 Out-of-Pocket Expenses

33. Except for expenses for travel covered by subsection (2) below, all expenses relating to Appriss's performance hereunder are included in Appriss's charges therefore, and shall not be reimbursed by Customer unless otherwise agreed to by Customer in writing.

34. To the extent Customer agrees that to reimburse Appriss for any travel or other out-of-pocket expenses related to services outside the scope of this Agreement, Appriss shall itemize expenses for travel incurred directly in the performance of such services outside the scope of this Agreement. Customer shall reimburse Appriss for its out-of-pocket expenditures for such travel pursuant to subsection (3) below.

35. To the extent Customer agrees that to reimburse Appriss for any out-of-pocket expenditure, such expenditure shall be passed through to Customer at actual cost

with no mark-up. To be eligible for reimbursement, such expenses must be properly documented and incurred by Appriss in connection with its performance hereunder, in accordance with Customer's then-current policy for such expenses; provided, however, that Appriss shall be responsible for travel expenses relating to Appriss's internal operations that are not directly related to performing Appriss's obligations for such services outside the scope of this Agreement, including account management, meetings and seminars.

9.7 Invoicing Standards

Appriss shall render one (1) copy of an invoice not later than one month following the month for which the charges in the invoice accrue. Provided that the amounts covered by the invoice are in fact due and payable by Customer hereunder, each invoice shall be paid in accordance with the provisions of this Section 9. Invoices shall be constructed to reflect the content of the Deliverables and/or services to which such charges relate and the impact of performance levels. Invoices shall differentiate the costs between tangible and non-tangible services and Deliverables on the invoice, and include as a minimum: (i) type and description of Deliverable and Service; (ii) basic charge for each Deliverable and Service; (iii) other charges as applicable; and (iv) total charges.

Appriss shall provide third-party charges for services procured by Appriss and shall provide Customer statistics detailed by category of resource consumption by each Customer entity or unit in such frequency, methodology and detail as may be required by Customer.

Without limitation on the foregoing, Appriss agrees to provide Customer with additional supporting documentation and other information as requested by Customer to verify the accuracy of the invoice.

9.8 Issuance and Delivery of Invoices

Invoices shall be issued and delivered to the entities and units specified by the Customer Project Manager with the pricing detail requested by the Customer Project Manager, and in a format and on the media agreed upon by Customer and Appriss. Customer may change the invoice format, as well as the detail and summary billing formats, and Appriss shall implement such changes as soon as reasonably practicable.

9.9 Payment Terms and Conditions

Appriss shall provide Customer with invoices relating to services provided hereunder following the completion by Appriss and acceptance or approval by Customer of all prerequisites to payment for the relevant services or Deliverables, or, in cases when this Agreement reflects that payment shall be based on a calendar event, upon the occurrence of such calendar event. The last business day of each calendar month shall be the cut-off for services and Deliverables to be invoiced in the next calendar month. For invoices received by Customer by the 15th of a calendar month, Customer shall pay the invoiced amounts or such portions thereof for which Appriss has furnished all requested information and supporting documentation, and which Customer has approved, no later than the 25th day of the month following receipt of the invoice.

9.10 Fee Disputes

In the event Customer disputes all or any portion of an invoice submitted by Appriss, Customer may withhold payment of the amount subject to the dispute; provided, however, that (i) Customer shall continue to pay the undisputed amount when it becomes due and

payable in accordance with the terms hereof; and (ii) Appriss shall continue to perform its obligations hereunder. The Parties shall resolve the dispute in accordance with the procedures set forth in Section 10. No failure by Customer to identify a contested fee or charge prior to payment of the invoiced amount shall limit or waive any of Customer's rights or remedies with respect to such fee or charges, including Customer's right to withhold such disputed amounts from subsequent fees or charges due to Appriss. Unpaid fees or charges that are in dispute shall not be considered a basis for default hereunder.

9.11 Increase in Charges Pursuant to Change Orders

If either Party proposes a Change in or addition to the Products or Services to be provided hereunder pursuant to the Change Order Procedures, the price for such Change or addition shall be determined in the manner set forth below:

36. To the extent the proposed Change or addition can be accommodated within the existing level of resources then being used by Appriss in performing its obligations hereunder, and without degradation to Appriss's compliance with all applicable performance requirements, the charges payable by Customer under this Agreement shall not be increased. To the extent a Change or addition proposed by either Party will lower Appriss's cost to perform its obligations fully hereunder, the charges payable by Customer under this Agreement shall be equitably adjusted to reflect such projected cost savings.

37. To the extent the proposed Change or additional Products and/or Services are not subject to clause (1) above, Appriss shall quote Customer a charge for such Change or addition equal to Appriss's incremental cost of providing such changed or additional Products and/or Services plus a profit margin on such incremental cost not exceeding the profit margin then charged by other suppliers similarly situated to Appriss to the type or types of Products or Services included in the Change or addition. Appriss shall include with its quote the information used by Appriss to determine its incremental costs and the appropriate profit margin, and a certificate, signed by an executive officer of Appriss, certifying that such quote complies with this clause (2).

At Customer's request, Appriss shall grant to Customer's auditors the information reasonably necessary for Customer to verify such compliance. If Customer's auditors determine that the quote proposed by Appriss did not comply with this clause (2), the charges to Customer shall be equitably adjusted to a rate that does comply with this clause (2), retroactive to the first date on which Appriss provided the changed or additional Products and/or Services, and Appriss shall reimburse Customer for the cost of the audit.

10. RESOLUTION OF DISPUTES

10.1 Resolution of Disputes of Invoices

Disputes arising out of or relating to this Agreement shall first be discussed by the Customer Project Manager and Appriss Project Manager. Any dispute that cannot be resolved within five (5) business days at the Project Manager level (or such other date as agreed upon by the Project Managers) shall be referred to Director level personnel of Customer and Appriss. Any dispute that cannot be resolved in ten (10) days at the

Director level shall then be discussed by the Vice President level personnel of Appriss and an individual at a corresponding level of Customer. Upon notification to this higher level personnel, the Parties may pursue available legal and equitable remedies.

10.2 Continuity of Performance

Both Customer and Appriss acknowledge that the performance of this Agreement is critical to the business and operations of Customer and Appriss. Accordingly, in the event of a fee dispute between Customer and Appriss pursuant to which Customer in good faith believes it is entitled to withhold payment or for which either Party in good faith believes payment is due, Appriss shall continue to perform its obligations hereunder and Customer shall continue to pay undisputed invoiced amounts to Appriss as set forth in Section 9.7.

11. INDEMNIFICATION

11.1 Indemnification by Appriss

Appriss shall, at its sole expense, indemnify and hold harmless Customer, its assigns and its officers, directors, employees, agents and representatives, and any third parties with whom Customer has or may in the future contract with to perform any aspect of Customer's Information Technology business functions, from and against any and all losses, damages, injuries (including death), causes of action, claims, demands and expenses (whether based upon tort, breach of contract, patent or copyright infringement, failure to pay employee taxes or withholdings, failure to obtain worker's compensation insurance, or otherwise), including reasonable legal fees and expenses, of any kind or nature arising out of or on account of, or resulting from, any intentional or negligent act or omission of, or default in the performance of its obligations pursuant to this Agreement by Appriss, its assigns, or its subcontractors, officers, directors, employees, agents or representatives, including but not limited to the breach of any representation or warranty of Appriss.

11.2 Notice

Customer shall give Appriss prompt notice of any claim or liability hereby indemnified against by Appriss and thereupon Appriss shall be entitled to control, and shall assume full responsibility for, the defense of such matter. If Appriss elects to assume such responsibility, it shall so notify the Customer. The indemnities contained herein shall not be deemed to be a waiver of or in limitation of any other rights either Party may have, including but not limited to any rights of indemnity or contribution.

The Customer shall cooperate in all reasonable respects with Appriss and its attorneys in the investigation, trial and defense of such claim or liability and any appeal arising there from; provided, however, that the Customer may, at its own cost and expense, participate, through its attorneys or otherwise, in such investigation, trial and defense of such claim or liability and any appeal arising there from. No settlement of a claim that involves a remedy other than the payment of money by the indemnifying Party shall be entered into without the consent of the indemnified Party. After notice by Appriss to the Customer of its election to assume full control of the defense of any such claim, Appriss shall not be liable to the Customer for any legal expenses incurred thereafter by Customer in connection with the defense of such claim.

If Appriss does not assume full control over the defense of a claim subject to defense as provided in this Section 11.2, the Customer may participate in such defense, at its sole

cost and expense, and the Customer shall have the right to defend such claim in the manner it deems appropriate, at the cost and expense of Appriss.

11.3 Intellectual Property Indemnity

Appriss warrants that each Product and Service furnished by it hereunder, and any program or other software, will not infringe upon or violate any patent, copyright, trade secret or any other proprietary right of any third party or contain the confidential information of any third party. If any claim by a third party against the Party asserting or involving a patent, copyright, trade secret or proprietary right violation involving any Product acquired or provided by Appriss hereunder, then Appriss will defend, at its expense, and will indemnify the Customer against any loss, cost, expense, or liability arising out of such claim, whether or not such claim is successful.

The Customer shall not have liability for infringement to the extent that such claim is based on the use, license, or sale of a Product in combination with other Products (including software) furnished by Appriss, use of the Product in a manner not allowed under any license granted to the Customer, or modification of the Product by the Customer, when without such combination, use, or modification the claim would not have arisen.

11.4 Use of Infringing Products

If an injunction or order shall be obtained against the Customer's use of any such Product or Service by reason of the allegations, or if in Appriss' opinion any such Product is likely to become a subject of a claim of infringement or violation of a copyright, trade secret or other proprietary right of a third party, Appriss will, at its option and its expense:

(i) procure for the Customer the right to continue using the Product; (ii) replace or modify the same so that it becomes non-infringing (which modification or replacement shall not adversely affect the applicable specifications for, or the use or operation by the indemnified Party of, the Product or Service); (iii) if the Product or Service is purchased, and the other options stated are not practicable, repurchase the Product or Service; or (iv) if the Product or Service is licensed, and the other options stated are not practicable, remove such Product or Service from the Customer's site(s) and refund to the Customer any charges paid by the Customer, other than charges for license payments for any actual period of use by the Customer in excess of twenty-four (24) months, and release the Customer from any further liability hereunder.

11.5 Discontinuation of Payments

In no event shall Customer be liable to Appriss for any license or maintenance payments after the date, if any, that Customer is no longer legally permitted to use any Product or Service because of such actual or claimed infringement. If removal or replacement of the Product or Service is required or undertaken pursuant to this Agreement, Appriss shall use reasonable care in the removal or modification thereof and shall, at its own expense, restore the premises as nearly to their original condition as is reasonably possible.

12. DEFAULTS AND REMEDIES

12.1 Defaults by Either Party

The occurrence of any of the following shall constitute a default:

38. Either Party shall fail to pay when due any undisputed amount due hereunder, and such failure shall continue for a period of sixty (60) days after written notice from one Party to the other; or
39. Any representation or warranty made by either Party in this Agreement shall prove to have been false or misleading in any material respect as of the date on or as of which the same was made; or
40. Either Party shall fail to perform or observe any representation, warranty, covenant, condition or agreement required by the Agreement to be performed or observed by it, and such failure continues for thirty (30) days after written notice of one Party to the other; or
41. Bankruptcy, receivership, insolvency, reorganization, dissolution, liquidation or other proceedings shall be instituted by or against either Party or all or any substantial part of its property under any federal or state law, and such proceedings shall continue for sixty (60) days.

12.2 Remedies of Either Party

If a default by either Party shall occur and be continuing, the other Party shall have the following remedies except as set forth in Section 5.9:

42. Terminate this Agreement and return any and all Products covered hereunder to the Party furnishing same, in the same manner as contemplated for return of such Product(s) at the end of the Product's term, except that such return shall be at the sole expense of the defaulting Party; and/or
43. By written notice to the defaulting Party declare this Agreement to be terminated, without prejudice to either Party's rights in respect to the obligations then accrued and remaining unsatisfied; and/or
44. Pursue the recovery of actual damages arising out of such default, subject to the limitations set forth in Section 12.7; and/or
45. Seek specific performance by the defaulting Party of its obligations hereunder; and/or
46. Exercise any other right or remedy that may be available at law or in equity.

12.3 No Waiver

In no event shall the acceptance by Customer, or the application by Appriss, of any service or Deliverable pursuant to this Agreement be deemed to be a waiver by Customer of any of its rights under this Agreement or at law or in equity. Notwithstanding the foregoing, either Party's failure or delay in performing any minor or technical aspect of its performance obligations hereunder shall not be considered as a default under this Agreement unless and until such failure or delay remains uncured for a period of thirty (30) days following the first occurrence thereof, or recurs repeatedly to the extent that the successful performance of this Agreement may be adversely affected.

12.4 Time to Cure

In addition to the time periods specified herein, above, either Party shall be permitted a period of thirty (30) days to cure any default; provided, however, that if the defaulting Party has commenced the curing of any default, other than a default in the payment of amounts due to be paid by one Party to the other, within the thirty (30) day period so provided and the defaulting Party is diligently and continuously pursuing the curing of such default, the thirty (30) day period shall be extended to permit the defaulting Party to complete the cure.

12.5 Mitigate Damages

Each Party shall in all events be required to mitigate its damages arising from any act or omission of the other Party hereunder.

12.6 Consequential Damages

In no event shall either Party be liable to the other for indirect, incidental, special, or consequential damages arising out of this agreement for the existence, furnishing, functioning, or Customer's use of the Work Product, documentation or tools provided by Appriss. The foregoing limitation of liability shall not apply to: (i) claims for damages in tort against either Party; or (ii) indemnification claims under Section 11. Claims for damages in tort shall be allowed and/or limited according to applicable Texas law.

12.7 Direct Damages

Except as allowed or limited by Section 9, neither Customer nor Appriss shall be liable to the other Party for any direct damages arising out of or relating to its performance hereunder, whether based on an action or claim in contract, equity, negligence, tort or otherwise, for all events, acts or omissions, in an amount to exceed in the aggregate an amount equal to the total amount of fees payable to Appriss during the twelve (12) month period immediately preceding the occurrence of the event, act or omission in question (the Direct Damages Cap). In the event a Party is liable hereunder for damages in excess of the Direct Damages Cap, the other Party may terminate this Agreement, in whole or in part, without regard to Section 17.3. The following shall be considered direct damages and Appriss shall not assert that they are consequential damages pursuant to Section 12.6 to the extent that they result from Appriss's failure to perform its obligations in accordance with the terms of this Agreement:

47. Costs and expenses of replacing lost, stolen or damaged equipment, software and materials; and
48. Costs and expenses incurred by Customer to procure from an alternate supplier all or any part of Services or Deliverables the performance of which is the obligation of Appriss hereunder, to the extent in excess of Appriss's charges hereunder; and
49. Straight time, overtime or related expenses incurred by Customer, including overhead allocations of Customer for Customer's employees, wages and salaries of additional employees, travel expenses, overtime expenses, telecommunications charges and similar charges, due to failure of Appriss to provide all or any part of the Deliverables or services incurred in connection with (1) or (2) above.

12.8 Exclusions

The limitations of liability set forth in Sections 12.6 and 12.7 are not applicable to (i) indemnification claims as set forth in Section 11; (ii) liability resulting from the gross negligence or willful misconduct of a Party; and (iii) Appriss' liability under Section 13.

13. CONFIDENTIAL INFORMATION

13.1 Confidential Information of Customer

Appriss and its employees, subcontractors, suppliers, representatives and agents shall not (without first obtaining the prior written consent in each instance of Customer) during the Term of this Agreement or thereafter, disclose, make commercial or other use of, give or sell to any person, firm, or corporation, any information received directly or indirectly from Customer or acquired or developed in the course of this Agreement, including, by way of example only, ideas, inventions, methods, designs, formulas, systems, improvements, prices, discounts, business affairs, products, product specifications, manufacturing processes, data and know-how, and technical information of any Customer whatsoever (Customer Confidential Information) unless:

- (v) required to do so pursuant to law (and then only on the entry of a protective order acceptable to Customer);
- (vi) it was rightfully in the possession of Appriss from a source other than Customer prior to the time of disclosure of said information to Appriss hereunder (Time of Receipt);
- (vii) it was in the public domain prior to the Time of Receipt;
- (viii) it became part of the public domain after the Time of Receipt by any means other than an unauthorized act or omission on the part of Appriss;
- (ix) it is supplied to Appriss after the Time of Receipt without restriction by a third party who is under no obligation to Customer to maintain such information in confidence; or
- (x) it was independently developed by Appriss prior to the Time of Receipt.

With respect to the Customer Confidential Information, Appriss further agrees:

- (xi) that all of Customer Confidential Information so accessed or acquired by it or its employees or agents under this Agreement shall be and shall remain Customer's exclusive property,
- (xii) to return such Customer Confidential Information to Customer at its request, and
- (xiii) to use the Customer Confidential Information only for the purpose of fulfilling Appriss's obligations under this Agreement.

13.2 Confidential Information of Appriss

Unless otherwise authorized by this Agreement, Customer agrees that it shall not, during the Term of this Agreement or thereafter, disclose, make commercial or other use of, give or sell to any person, firm, or corporation, any information of Appriss that is treated and identified to Customer by Appriss as confidential (Appriss Confidential Information), except Customer can disclose such information if:

- (xiv) required to do so pursuant to applicable law, including but not limited to disclosures required by the Texas Public Information Act;
- (xv) it was rightfully in the possession of Customer from a source other than Appriss prior to the time of disclosure of said information to Customer hereunder (Time of Receipt);
- (xvi) it was in the public domain prior to the Time of Receipt;
- (xvii) it became part of the public domain after the Time of Receipt by any means other than an unauthorized act or omission on the part of Customer;
- (xviii) it is supplied to Customer after the Time of Receipt without restriction by a third party who is under no obligation to Appriss to maintain such information in confidence;
- (xix) it was independently developed by Customer prior to the Time of Receipt;
- (xx) it was developed by Appriss at Customer's expense;
- (xxi) it is necessary for Customer to authorize its designee to examine and monitor the performances herein and in such event Customer's designee shall be required to comply with the confidentiality provisions of this Agreement.

With respect to Appriss Confidential Information, Customer further agrees:

- (xxii) that all of Appriss Confidential Information so accessed or acquired by it or its employees or agents under this Agreement shall be and shall remain Appriss's exclusive property,
- (xxiii) to return such Appriss Confidential Information to Appriss at its request, and
- (xxiv) to use the Appriss Confidential Information only for the purpose of fulfilling Customer's obligations under this Agreement.

13.3 Reproduction of Manuals, Documentation and Software

Notwithstanding the limitations of the foregoing Section 13.2, Customer shall have the right, at no additional cost, to reproduce any and all public information or media kit information, manuals, documentation, and software media supplied pursuant to this Agreement, regardless of whether the same be copyrighted or otherwise restricted as proprietary information; provided, however, that such reproductions shall be subject to the same restrictions on use and disclosure as are set forth in this Agreement. Appriss agrees to execute any non-exclusive copyright assignments or reproduction authorizations that may be necessary for Customer to utilize the rights granted in this subparagraph. Any and all copies of manuals, documentation, and software media made by Customer shall include a valid copyright notice indicating Appriss's proprietary interest therein.

13.4 Standard of Care

With respect to financial, statistical, personnel and other private data relating to each Party's business, and which is made available to either Party by the other Party in order to carry out this Agreement, both Parties agree that such information is Confidential Information of the respective Parties, and agree not to (without first obtaining the prior written consent of the other Party in each instance) during the Term of this Agreement or thereafter, disclose, make commercial or other use of, give or sell to any person, firm or corporation, any such Confidential Information received directly or indirectly from the other Party or acquired or developed in the course of this Agreement unless required to do so pursuant to applicable law. This paragraph does not apply to information developed in the course of monitoring Appriss's performances under this Agreement. Any information developed or acquired or relating to auditing, performance, test events, satisfaction surveys or benchmarking shall be deemed public information.

13.5 Individual Confidentiality Agreements

Appriss shall communicate the requirements of Section 13.1 to its employees and agents. Appriss shall be responsible for the execution of an Individual Confidentiality Agreement (in accordance with Section 5.7) by each such Appriss employee and agent who is to be allowed access to Customer Confidential Information reflecting such individuals' agreement to be personally bound by the restrictions on the disclosure of Customer Confidential Information as set forth in Section 13.1.

13.6 Unauthorized Access

Each Party shall:

50. As soon as reasonably practicable, notify the other Party of any unauthorized possession, use or knowledge, or attempt thereof, of the other Party's Confidential Information, of which it becomes aware, including any material breach or potential material breach of security on a system, LAN or telecommunications network that contains, processes or transmits Confidential Information of the other party.
51. As soon as reasonably practicable, furnish to the other Party full details of the unauthorized possession, use or knowledge, or attempt thereof, and use reasonable efforts to assist the other Party in investigating or preventing the recurrence of any unauthorized possession, use or knowledge, or attempt thereof, of Confidential Information.
52. Use reasonable efforts to cooperate with the other Party in any litigation and investigation against third parties deemed necessary by the other Party to protect its proprietary rights. Customer shall have the right to conduct and control any investigation relating to such breach or potential breach of its Confidential Information that it determines is appropriate.
53. Use all reasonable efforts to prevent a recurrence of any such unauthorized possession, use or knowledge of Confidential Information.
54. Bear the cost it incurs as a result of compliance with this Section 13.6. In the event of the expiration or termination of this Agreement, the applicable Confidential Information disclosed and all copies thereof shall upon request by the disclosing Party be returned to the disclosing Party, or at such Party's option, destroyed by the recipient, and the recipient shall provide to the disclosing Party certificates evidencing such destruction.

14. PROPRIETARY RIGHTS

14.1 Customer Software

Customer hereby grants to Appriss, solely to provide the Services, a non-exclusive, non-transferable right to (i) use, (ii) copy for archival purposes, and (iii) to the extent permitted by the licenses in respect of Third-Party Software and with Customer's prior approval, modify the Customer Software; provided, however, that Appriss may not decompile, disassemble, or otherwise reverse engineer the Customer Software in any manner. As of the effective date of this Agreement, Customer shall upon Appriss's request at no cost to Appriss, provide Appriss with access to the Customer Software in the form in use by Customer as of such effective date.

To the extent approved by Customer, Appriss may sublicense to Appriss's subcontractors the right to have access to and operate the Customer Software as may be necessary in connection with the provision of the Services. Upon the expiration of this Agreement or the termination of this Agreement for any reason, Appriss's rights to the Customer Software shall terminate and Appriss shall return same to Customer, except to the extent the Customer Software is necessary or appropriate in connection with Appriss's provision of Termination Assistance Services.

14.2 Appriss Software

Customer shall have no rights or interests to the Appriss Software except as described in this Section. Prior to using any Appriss Software to provide any of the Services, Appriss shall notify Customer that it intends to use Appriss Software and obtain Customer's consent to such use. If Customer does not consent to such use, Appriss shall recommend a functionally equivalent alternative which Appriss shall use upon Customer's consent.

As part of the Services, Appriss shall during the performance of the Services: (i) use the Appriss Software set forth in this Agreement and such other software as Customer and Appriss may agree upon from time to time, as may be required to provide the Services, (ii) make available to Customer such Appriss Software for use by Customer solely in connection with the Services.

Upon the expiration of this Agreement or the termination of this Agreement for any reason, Customer's rights to the Appriss Software shall terminate and Customer shall return same to Appriss, except to the extent the Appriss Software is necessary or appropriate in connection with Appriss's provision of Termination Assistance Services.

14.3 Appriss Third-Party Software

Appriss may utilize Software that is licensed from a third party in order to provide the Services (Appriss Third-Party Software). The Appriss Third-Party Software shall be and shall remain the exclusive property of Appriss's third-party licensors, and Customer shall have no rights or interests in the Appriss Third-Party Software except as described in this Section.

As part of the Services, Appriss shall during the period of Appriss's performance of the Services: (i) use such Appriss Third-Party Software as Customer and Appriss may agree to add from time to time, as may be required to provide the Services; (ii) make available to Customer such Appriss Third-Party Software for use by Customer solely in connection with the Services; and (iii) deliver to Customer at its request, no more than once during every quarter during the performance of the Services, to the extent permissible under the

applicable agreements for the Appriss Third-Party Software, a copy of the Appriss Third-Party Software (including related source code) for archival purposes only.

Upon the expiration or termination of this Agreement for any reason, Customer's rights to the Appriss Third-Party Software shall terminate except as such continued use is necessary or appropriate in connection with the provision of Termination Assistance Services.

14.4 Developed Software

Appriss may develop Software by original authorship or through contracts with third parties as part of and/or in order to perform Services specifically for Customer (the Developed Software). The Developed Software shall be and will remain the exclusive property of Customer and the State of Texas. In consideration of the payments made pursuant to this Agreement, Appriss hereby assigns to Customer and the State of Texas all of Appriss's rights in and interests to the Developed Software. Customer hereby grants to Appriss a non-exclusive, royalty-free, transferable right to use the Developed Software solely to provide the Services to Customer and to any other Appriss governmental customer.

As part of the Services, Appriss shall deliver to Customer a list that is continuously updated which identifies with particularity all Developed Software and, immediately upon Customer's request, deliver a copy of the Developed Software (including related source code). Upon the expiration of this Agreement or the termination of this Agreement for any reason, Appriss shall at no cost to Customer, deliver to Customer a current copy of all such Developed Software in the form in use as of the date of such expiration or termination.

The provisions of this Section 14.4 apply to the Developed Software and all updates, modifications and revisions thereof.

14.5 Changes and Upgrades to Systems

Except as may be approved by Customer, Appriss may not make any changes or modifications to the Customer Software or the Developed Software. Except as may be approved by Customer, any changes or modifications to the Appriss Software made by Appriss pursuant to this Agreement shall not have an adverse effect on the functionality or performance of any Critical Systems or other Customer operating systems except as may be necessary on an emergency basis to maintain the continuity of the Services.

14.6 Documentation

Except as set forth in Section 14.1 with respect to the Appriss Software, all Documentation shall be and will remain the exclusive property of Customer. In consideration of the payments to be made pursuant to this Agreement, Appriss hereby assigns to Customer or its assigns all rights in and interests to the Documentation.

14.7 Consents

Appriss shall be responsible for, and shall pay any costs associated with, obtaining consents, approvals, authorizations, notices, requests and acknowledgments that are necessary to allow:

55. Appriss to use the Customer Software, Customer Equipment and the services under Customer's third-party service contracts, to provide the Services; and

56. Appriss to use the Appriss Software and Appriss Equipment to provide the Services; and
57. Appriss to assign to Customer all rights and title to the Developed Software and Work Product; and
58. Customer to use the Appriss Software, the Developed Software, and Appriss Intellectual Property during the period Appriss is to perform the Services requiring such use, and upon the expiration or termination thereof.

Customer shall cooperate with Appriss in obtaining such consents.

14.8 Work Product

Inventions, designs, mask works, processes, methodologies, literary works and works of authorship, as those terms are understood under United States law, created, developed or prepared by Appriss under or in support of the performance of its obligations hereunder, including manuals, reports, all public information or media kit information, training materials and documentation, but excluding software (the Work Product) shall be owned by Appriss. In consideration of the payments made pursuant to this Agreement, Appriss hereby assigns to Customer and the State of Texas the right to use, reproduce, publish (in any media or form either known or unknown), modify and create derivative works in and to any interests to the Work Product.

Appriss agrees to execute any documents or take any other actions as may reasonably be necessary, or as Customer may reasonably request, to perfect Customer's rights in any such Work Product. Appriss shall at no cost to Customer: Deliver to Customer, upon Customer's request during the Term and the expiration or termination of all or part of Appriss's performance hereunder, a current copy of all Work Product in the form and on the media in use as of the date of Customer's request, or, as of such expiration or termination, as the case may be,

14.9 Intellectual Property

All inventions, designs, mask works, processes, methodologies, literary works and works of authorship as those terms are understood under United States law, including any improvements or modifications thereto, created, developed or prepared by Customer, or that are proprietary to or otherwise owned by Customer or its third-party licensor, shall remain the property of Customer or its third-party licensor, as the case may be (Customer Intellectual Property). "Appriss Intellectual Property" shall mean inventions, designs, mask works, processes, methodologies, literary works, and works of authorship as those terms are understood under United States law, created, developed or prepared by Appriss and used in connection with Appriss's performance hereunder, but not including Software, Work Product or Customer Intellectual Property. Appriss: Hereby grants to Customer a perpetual, worldwide, nonexclusive, nontransferable, royalty-free license to use, operate, maintain, copy, modify and create derivative works, and to grant the right to use, operate, maintain, copy, modify and create derivative works to third parties engaged by Customer, for Customer's business operations, the Appriss Intellectual Property in connection with the Services.

15. ASSIGNMENT**15.1 Assignment by Appriss**

Appriss may assign any of its rights or obligations hereunder to any parent or subsidiary entity of Appriss. Appriss may assign any of its rights or obligations hereunder to an entity not affiliated with Appriss. Except when otherwise agreed in writing by Customer, no such assignment shall release Appriss from its obligations pursuant to this Agreement. Upon any such assignment by Appriss, Customer may terminate this Agreement in whole or in part without recourse, liability, cost or penalty, upon at least thirty (30) calendar days' notice to Appriss.

15.2 Assignment by Customer

Customer may assign this Agreement in whole or in part to any Customer affiliate or subsidiary of Customer, or other unit of government upon written notice to, but without the consent of, Appriss. Upon such assignment and an assumption of liability hereunder by the assignee, Customer shall be discharged of any further liability pursuant to this Agreement. Any other assignment of this Agreement in its entirety by Customer may occur only with the prior written consent of Appriss, which consent shall not be unreasonably withheld or delayed.

15.3 Transfer of Documentation and Manuals

The right of Customer to sell, rent, lease, or otherwise transfer or assign all or any part of any Product, or the right to use or operate all or any part of any Product, shall include the right to sublicense, transfer, or assign any Appriss manuals, public information or media kit information and documentation, provided or to be provided to Customer, relating to any such Product; provided, however, that upon written request the transferee thereof shall enter into an agreement with Appriss providing for the confidential treatment by such transferee of such manuals and documentation, which agreement shall be on terms and conditions comparable to those then binding Customer and Appriss with respect to such matters.

16. INSURANCE**16.1 Appriss Insurance**

Appriss shall maintain insurance coverage, and on all certificates for coverage under general liability, automobile liability, employer's liability, worker's compensation, and any other coverage required under State law, shall:

- (xxv) name Customer as an additional insured, including without limitation, as an insured with respect to third-party claims or actions made or brought directly against Customer or against Customer and Appriss as co-defendants and arising out of or in connection with this Agreement;
- (xxvi) contain a provision that Customer, although named an insured, shall nonetheless be entitled to recovery for any loss suffered by Customer as a result of Appriss's negligence;
- (xxvii) be written as a primary policy not contributing with any other coverage which Customer may carry; and
- (xxviii) stipulate that Customer shall receive thirty (30) days prior written notice of any cancellation or reduction in coverage; provided that

such cancellation or alteration shall not relieve Appriss of its continuing obligation to maintain insurance coverages in accordance with this Section 16.

Appriss agrees to maintain general liability, automobile, employer's liability, completed operations, errors and omissions, and fidelity insurance in amounts of at LEAST ONE MILLION (\$1,000,000) DOLLARS per occurrence. Such insurance shall be maintained at all times during the performance of this Agreement, and the completed operations insurance and the errors and omissions insurance shall be maintained for a further period of two (2) years thereafter. Any and all exclusions to other limits or restrictions on coverage of any such insurance shall be subject to Customer's authorization.

16.2 Insurance Documentation

Appriss shall furnish Customer with certificates of insurance executed by the insurers evidencing all of the insurance referred to herein (including renewals of insurance). Appriss's obligations under this Section 16 shall in no way affect the indemnification, remedy, or warranty provisions set forth in this Agreement.

17. TERMINATION

17.1 Termination for Convenience

Customer may, in its sole discretion, terminate this Agreement in whole or in part, without recourse, liability or penalty, upon thirty (30) calendar days notice to Appriss.

17.2 Notice of Change in Control of Appriss

In the event of a sale, transfer or assignment of all or substantially all of the assets of Appriss, Appriss will provide Customer, at least ninety (90) calendar days' notice to Customer of the sale, transfer or assignment.

17.3 Termination for Cause

59. If either Customer or Appriss fails to perform any of its obligations or breaches any representations or warranties hereunder (except as provided in subsection (2)), and such failure is not cured within thirty (30) calendar days after notice is given to the defaulting Party, then the non-defaulting Party may, upon further notice to the defaulting Party, terminate this Agreement as to all or part of the Deliverables or Services being or to be provided by Appriss hereunder, as of the date specified in the notice of termination; provided, however, that if, after the defaulting Party's best efforts such default could not be cured within such thirty (30) day period, the time to cure a default shall extend for up to fifteen (15) calendar days from the date on which a notice of default is received by the defaulting Party, if the defaulting Party has promptly commenced to cure the default and continues to use its best efforts to cure such default during the fifteen (15) day period.
60. If either Customer or Appriss repeatedly fails to perform any of its obligations or breaches any representations hereunder, regardless of whether such failures or breaches are cured, the non-defaulting Party may, upon further notice to the defaulting Party, terminate all or part of the Deliverables or Services being or to be provided by Appriss hereunder, as of the date specified in such notice of termination.

17.4 Termination for Insolvency

In the event either Party is unable to pay its debts generally as they come due, or is declared insolvent or bankrupt, or is the subject of any proceedings relating to its liquidation, insolvency or for the appointment of a receiver or similar officer for it, makes an assignment for the benefit of all or substantially all of its creditors, or enters into an agreement for the composition, extension, or adjustment of all or substantially all of its obligations, then the other Party hereto may, by giving written notice thereof to such Party, terminate this Agreement as of the date specified in the notice of termination.

17.5 Other Terminations

This Agreement may also terminate pursuant to Section 12.8 and Section 20.6. Any termination effected pursuant to these Sections shall not be subject to Section 17.3.

17.6 Effect of Partial Termination

In the event of a termination of this Agreement pursuant to this Section 17 as to part of the Deliverables or Services provided or to be provided by Appriss hereunder, this Agreement shall remain in effect with respect to those Deliverables and/or Services still to be provided by Appriss.

17.7 Funding Out

Unless Appriss is otherwise notified in writing by Customer, the obligations, duties, responsibilities and liabilities of Customer to Appriss automatically terminate, cease, expire upon the termination, cessation or expiration of grant funding from the Office of the Attorney General of Texas.

18. AUDIT RIGHTS; RECORDS RETENTION**18.1 Duty to Maintain Records**

Appriss shall maintain adequate records to support its charges, procedures, and performances to Customer for all work related to this Agreement. Appriss also shall maintain such records as are deemed necessary by the Customer, Customer's auditor, the OAG and auditors of the State of Texas, the United States, or such other persons or entities designated by the Customer, to ensure proper accounting for all costs and performances related to this Agreement.

18.2 Records Retention

Appriss shall maintain and retain for a period of four (4) years after the submission of the final expenditure report, or until full and final resolution of all audit or litigation matters which arise after the expiration of the four (4) year period after the submission of the final expenditure report, whichever time period is longer, such records as are necessary to fully disclose the extent of services provided under this Agreement, including but not limited to any daily activity reports and time distribution and attendance records, and other records that may show the basis of the charges made or performances delivered.

18.3 Audit Trails

Appriss shall maintain appropriate audit trails to provide accountability for updates to mission critical information, charges, procedures, and performances. Audit trails maintained by Appriss will, at a minimum, identify the supporting documentation prepared by Appriss to permit an audit of the system by tracing the activities of individuals through the system. Appriss's automated systems must provide the means whereby authorized personnel have the ability to audit and to verify contractually required performances and to establish individual accountability for any action that can potentially cause access to, generation of, or modification of confidential information. Appriss agrees that Appriss's failure to maintain adequate audit trails and corresponding documentation shall create a presumption that the services or performances were not performed.

18.4 Access

Appriss shall grant access to all paper and electronic records, books, documents, accounting procedures, practices, and any other items relevant to the performance of this Agreement and the operation and management of Appriss to the Customer, auditors of Customer, the OAG, the State of Texas, the United States, or such other persons or entities designated by Customer for the purposes of inspecting, auditing, or copying such items. All records, books, documents, accounting procedures, practices, and any other items, in whatever form or media, relevant to the performance of this Agreement shall be subject to examination or audit in accordance with all contract performances and duties, all applicable state and federal laws, regulations or directives, by the Customer, auditors of Customer, the OAG, the State of Texas, the United States, or such other persons or entities designated by Customer. Appriss will direct any subcontractor to discharge Appriss's obligations to likewise permit access to, inspection of, and reproduction of all books and records of the subcontractor(s) that pertain to this Agreement.

18.5 Location

Any audit of documents listed in Section 18.4 shall be conducted at the Appriss's principal place of business and/or the location(s) of the Appriss's operations during the Appriss's normal business hours and at the Customer's expense. Appriss shall provide to Customer and such auditors and inspectors as Customer may designate in writing, on Appriss's premises (or if the audit is being performed of a subcontractor, the subcontractor's premises if necessary) space, office furnishings (including lockable cabinets), telephone and facsimile services, utilities and office-related equipment and duplicating services as Customer or such auditors and inspectors may reasonably require to perform the audits described in this Section 18.

18.6 Reimbursement

. If an audit or examination reveals that Appriss's invoices for the audited period are not accurate, Appriss shall promptly reimburse Customer for the amount of any overcharge, unallowable or excessive amount.

18.7 Reports

Appriss shall provide to Customer periodic status reports in accordance with Customer's audit procedures regarding Appriss's resolution of any audit-related compliance activity for which Appriss is responsible.

19. TERMINATION ASSISTANCE

19.1 Termination Assistance Services

In the event of the expiration or termination of all or part of the Services hereunder, Appriss shall, upon Customer's request, continue to provide the Services that were provided by Appriss prior thereto as well as any new Services requested by Customer that may be required to facilitate the transfer of the affected Services to Customer or a third-party service provider, as applicable, including providing to Customer or third-party personnel training in the performance of the affected Services (collectively, the Termination Assistance Services) in accordance with the following:

61. At no additional cost, Appriss shall provide to Customer and any designated third-party service provider: (i) in writing, to the extent available, applicable requirements, standards, policies, operating procedures and other documentation relating to the affected Services, and (ii) necessary access to the systems and sites from which the affected Services were provided.
62. If and to the extent requested by Customer, Appriss shall assist Customer in developing a plan that shall specify the tasks to be performed by the Parties in connection with the Termination Assistance Services and the schedule for the performance of such tasks.
63. Appriss will provide the Termination Assistance Services for a period of up to one (1) year as may be reasonably required by Customer for the orderly transition of the affected Services (the Termination Assistance Period), as agreed upon by Customer and Appriss, except to the extent that resources included in the fees otherwise being paid by Customer to Appriss can be used to provide the Termination Assistance Services.
64. Following the Termination Assistance Period, Appriss shall: (i) answer questions from Customer regarding the Services on an "as needed" basis as agreed upon by Customer and Appriss, and (ii) deliver to Customer any remaining Customer-owned reports and documentation still in Appriss's possession.
65. Upon request from Customer, Appriss shall, to the extent permitted by third-party contracts:
 - c. Make available any Appriss Equipment dedicated to the performance of the affected Services, by allowing Customer or its designee to: (i) purchase, at the lesser of fair market value and book value, any such Appriss Equipment owned by Appriss, and (ii) assume the lease of any such Appriss Equipment leased by Appriss.
 - d. Transfer or assign, upon Customer's request, any third-party contracts applicable to the affected Services for maintenance, disaster recovery services or other necessary third-party services being used by Appriss and dedicated to the performance of the affected Services, to Customer or its designee, on terms and conditions acceptable to all parties.
 - e. License to Customer, or assist Customer in obtaining a license to, Software then being used by Appriss in providing the Services in accordance with the provisions of Section 14 of this Agreement.
66. Continue to provide the Services and any new Services requested by Customer that may be required to facilitate the transfer of Services requested by Customer to Customer or Customer's designee.

67. Appriss shall provide to Customer, in the form and of the content requested by Customer, inventories of the Equipment and Software used in connection with the provision of the Services as needed.

Appriss shall not degrade the quality or level of its performance during the Termination Assistance Period.

19.2 Divested Entities

In the event an entity or unit of Customer is sold or otherwise divested (the Divested Entity), Appriss shall, upon Customer's request and subject to the Divested Entity providing Appriss with reasonable assurances that it will pay all amounts due, provide all or part of the Services to the Divested Entity for a period of one (1) year after the effective date of the sale or divestiture, on the same terms as the terms under which such Services are then being provided to Customer hereunder.

19.3 Third-Party Consents for Termination Assistance

Appriss shall ensure that all consents or approvals to allow Appriss to provide the Termination Assistance Services hereunder have been obtained, on a contingent basis, in advance and will be provided by the applicable third parties at no cost or delay to Customer.

20. MISCELLANEOUS PROVISIONS

20.1 Taxes

The fees paid to Appriss pursuant to this Agreement are inclusive of any applicable sales, use, personal property or other taxes attributable to periods on or after the applicable effective date of this Agreement and based upon or measured by Appriss's cost in acquiring or providing products and/or services and related materials and supplies furnished or used by Appriss in performing its obligations hereunder, including all personal property and use taxes, if any, due on equipment or software owned by Appriss.

20.2 Compliance with Laws and Regulations

Appriss agrees that it will comply with the provisions of all applicable federal, state, county and local laws, ordinances, regulations and codes in the performance of this Agreement, including the procurement of permits and certificates where needed. Appriss further agrees to indemnify and hold harmless Customer for any loss or damage that may be sustained by reason of Appriss's failure to comply with the aforementioned federal, state, county and local laws, ordinances, regulations and codes.

20.3 Compliance with Customer Security Policies and Procedures

Appriss agrees that it will comply with all Customer policies and procedures applicable to the security and safety of Customer's information in the possession of Appriss, and shall establish and maintain safeguards for the protection thereof.

20.4 Independent Contractor Status and General Liability Provision

Appriss shall be deemed to be an independent contractor hereunder and shall not be considered or permitted to be an agent, servant, joint venturer, joint enterpriser or partner of Customer. Appriss agrees to take such steps as may be necessary to ensure that each subcontractor of Appriss will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, joint enterpriser or partner

of Customer. All persons furnished, used, retained, or hired by or on behalf of Appriss or any of its subcontractors shall be considered to be solely the employees or agents of Appriss or such subcontractor, and Appriss shall be responsible for ensuring that there is payment of any and all unemployment, social security, and other payroll taxes for such persons, including any related assessments or contributions required by law. Appriss further agrees to indemnify and hold harmless Customer for any loss or damage that may be sustained by reason of claims or actions to recover damages against Customer for vicarious liability or for claims by Appriss' employees, servants, agents, subcontractors or designees seeking damages for any and all unemployment, social security, and other payroll taxes for such persons, including any related assessments or contributions required by law.

20.5 Publicity

Neither Party shall use the other Party's name or refer to the other Party directly or indirectly in any media release, public announcement or public disclosure relating to this Agreement or any acquisition pursuant hereto, including in any promotional or marketing materials, customer lists, referral lists or business presentations, without consent from the other Party for each such use or release. Neither Party may use any trademark or service mark of the other Party without that Party's consent, which consent shall be given in the Party's sole discretion.

20.6 Force Majeure

Neither Party shall be deemed to be in default of any provision of this Agreement for failures in performance resulting from acts or events beyond the reasonable control of such Party. Such acts shall include, but not be limited to, acts of God, civil or military authority, civil disturbance, war, strikes, fires, other catastrophes, or other similar events beyond the Parties' reasonable control (Force Majeure Event); provided, however, that the provisions of this Section shall not preclude Customer from canceling or terminating this Agreement as permitted hereunder, regardless of any Force Majeure event occurring to Appriss.

Should a Force Majeure event continue for more than thirty (30) days, either Party will have the right to immediately terminate this Agreement as to all or part of the Services provided or to be provided hereunder.

20.7 Notices

Any and all notices permitted or required to be given hereunder shall be deemed duly given (i) upon actual delivery, if delivery is by hand; or (ii) upon delivery into the United States mail if delivery is by postage paid registered or certified return receipt requested mail. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Party may designate by notice delivered pursuant to this Section.

Appriss Address:

10401 Linn Station Road, Suite 200
Louisville, KY 40223

Customer Address:

Williamson County
508 South Rock St.
Georgetown, TX 78626

20.8 Cumulative Remedies

Except as specifically provided herein, no remedy made available to Customer hereunder is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy provided hereunder or available at law or in equity.

20.9 Amendment

This Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by authorized personnel of the Parties for that express purpose. All amendments or modifications of this Agreement shall be binding upon the Parties despite any lack of consideration. Any attempted amendment or modification of this Agreement that does not comply with this Section will be deemed void.

20.10 Non-waiver

The failure of any party to insist upon strict performance of any of the terms or conditions herein, irrespective of the length of time for which such failure shall continue, shall not be a waiver of that party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under this Agreement shall constitute a consent or waiver to or of any breach or default in the performance of the same or any other obligation of this Agreement. No term or provision of this Agreement or of any document incorporated herein by reference shall be deemed waived and no breach shall be deemed excused unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented.

20.11 Partial Invalidity

If any term or provision of this Agreement, or of any document incorporated herein by reference, shall be found to be illegal or unenforceable then, notwithstanding such illegality or unenforceability, this Agreement, and each incorporated document, shall remain in full force and effect and such term or provision shall be deemed to be deleted.

20.12 Non-hire of Staff

The Parties agree that during the Term hereof and for a period of one year following the termination of this Agreement, neither Party shall directly or indirectly solicit or in any manner attempt to hire any employee of the other Party or otherwise encourage any such employee to pursue any other employment or career opportunities.

20.13 Successors and Assigns

To the extent permitted by law, this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns, if any, of the Parties, except that nothing contained in this Section shall be construed to permit any attempted assignment that would be unauthorized or void pursuant to any other provision of this Agreement.

20.14 Attorney's Fees

With respect to any dispute arising out of or relating to this Agreement, or the breach hereof, the prevailing Party shall be entitled to recover its reasonable attorney's fees and costs incurred in connection with any action or proceeding related to such dispute.

20.15 Table of Contents; Headings

The Table of Contents and the Section, Paragraph and Subparagraph headings used in this Agreement are for convenience of reference only and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

20.16 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

20.17 Entire Agreement

This Agreement reflects the entire agreement between the Parties with respect to the subject matter therein described, and there are no other representations, understandings or agreements between the Parties relative to such subject matter.

20.18 Rights Upon Orderly Termination

Upon termination or other expiration of this Agreement, each Party shall forthwith return to the other all papers, materials and properties of the other held by such Party and required to be returned by this Agreement. In addition, each Party will assist the other Party in the orderly termination of this Agreement and the transfer of all aspects hereof, tangible and intangible, as may be necessary for the orderly, non-disrupted business continuation of each Party.

20.19 Survival of Representations and Warranties

The terms and provisions contained in this Agreement that by their sense and context are intended to survive the performance hereof by either or both Parties hereto shall so survive the completion of performance and termination of this Agreement, including without limitation the making of any and all payments due hereunder.

20.20 Governing Law; Venue

This Agreement is made and entered into in the State of Texas, and this Agreement and all disputes arising out of or relating thereto shall be governed by the laws of the State of Texas, without regard to any otherwise applicable conflict of law rules or requirements.

Appriss agrees that any action, suit, litigation or other proceeding (collectively "litigation") arising out of or in any way relating to this Agreement, or the matters referred to therein, shall be commenced exclusively in the Customer's District Court or the United States District Court in the District and Division where Customer is located, and hereby irrevocably and unconditionally consent to the exclusive jurisdiction of those courts for the purpose of prosecuting and/or defending such litigation. Appriss hereby waives and agrees not to assert by way of motion, as a defense, or otherwise, in any suit, action or proceeding, any claim that (a) Appriss is not personally subject to the jurisdiction of the above-named courts, (b) the suit, action or proceeding is brought in an inconvenient forum or (c) the venue of the suit, action or proceeding.

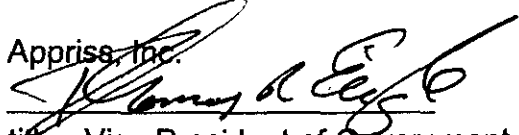
20.21 Covenant of Further Assurances

The Parties covenant and agree that, during the Term hereof and without any additional consideration, each of Customer and Appriss shall execute and deliver any further legal instruments and perform any acts which are or may become necessary to effectuate the purposes of this Agreement and any amendment or modification hereto.

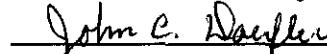
The Parties have read this Agreement, understand it, agree that the terms hereof shall be incorporated into the Agreement, and agree to be bound thereby.

IN WITNESS WHEREOF, this Agreement has been executed by the Parties to be effective as herein above provided.

Appriss, Inc.

title: Vice President of Government Sales

Date: _____

Political Subdivision] Williamson County

[authorized signatory]

Date: 8-19-03**21. SERVICES AGREEMENT EXHIBITS**

Separate Exhibits are attached and incorporated.

Exhibits to be attached to as addenda and incorporated into the Services Agreement will include the following:

- S-01 Service Specification
- S-11 Service Level Standards
- S-12 Service Performance Reports
- K-01 Schedule of Payments
- V-01 Vendor Certification



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

Texas VINE GRANT CONTRACT

Williamson County

GRANT CONTRACT

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GRANT CONTRACT

THIS GRANT CONTRACT, including all Exhibits and Schedules attached hereto and incorporated herein by reference (the Agreement) is made and entered into as of the 4th day of June, 2003, by and between Williamson County hereinafter referred to as 'COUNTY' and the Office of the Attorney General of Texas (OAG). COUNTY AND the OAG may be referred to in this Agreement individually as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the covenants, agreements and conditions herein contained, the Parties agree as follows:

1. PURPOSE; CONSTRUCTION OF AGREEMENT

1.1 Purpose.

The purpose of this Agreement is to reimburse COUNTY for certain cost incurred in the participation in a statewide crime victim notification service.

To ensure a standard statewide service to all interested counties, including COUNTY, the OAG will reimburse COUNTY for services delivered to COUNTY by the vendor certified by the OAG to provide such standard statewide services. The certification and the certification process is documented in that certain document dated November 22, 2002 and entitled: Vendor Certification for the Statewide Automated Victim Notification Service (SAVNS). This document is hereinafter referred to as the 'Certification' is expressly incorporated herein by reference. The vendor certified to provide the services is Appriss, Inc. a Kentucky corporation authorized to do business in Texas (hereinafter 'Certified Vendor').

This Agreement documents the requirements, conditions, obligations, limitations, and other terms for the COUNTY to be eligible for cost reimbursement by the OAG.

1.2 Construction of Agreement. The provisions of this Section 1 are intended to be a general introduction to this Agreement, and to the extent the terms and conditions of this Agreement do not address a particular circumstance or are otherwise unclear or ambiguous, such terms and conditions are to be interpreted and construed consistent with the objectives, expectations and purposes stated in this Section 1. All Exhibits and Schedules attached hereto are hereby incorporated by reference herein in their entirety for all purposes.

2. COUNTY OBLIGATIONS

2.1 County Implementation Plan. As a condition precedent to any reimbursement of allowable costs, COUNTY will prepare an plan to implement the services in the COUNTY (County Implementation Plan). Before commencing any compensable work, the County Implementation Plan, at a minimum will include:

1. a list of tasks and activities required of COUNTY and that are necessary for the successful implementation and testing of the services;
2. a schedule that describes the time frames that each increment of work will be performed and completed;
3. identification and commitment of staff resources and equipment necessary install and implement the services in a timely manner;

2.2 Services Contract. COUNTY will execute a services contract with the Certified Vendor to provide services consistent with the Certification document. The COUNTY services contract will include terms and conditions that are intended to provide the COUNTY such rights and remedies as are necessary to ensure the delivery of the services in accordance with the **Scope of Services** section herein. For the convenience of COUNTY, a template services contract is made available to COUNTY. The OAG is not acting as an attorney for the COUNTY, therefore the COUNTY is advised to have attorneys of its choice to review and modify the template services contract to protect the interest of the COUNTY and to assure that the services will be delivered according the Certification document.

2.3 Implementation. COUNTY will implement the services in a manner consistent with the Scope of Services and the COUNTY Implementation Plan. COUNTY agrees to execute the County Verification Plan within thirty (30) calendar days after the Certified Vendor verification and testing is complete. COUNTY agrees to provide documentation of any programming or system errors to the Certified Vendor within that same thirty (30) calendar day period.

2.4 Maintenance Plan. COUNTY will prepare and maintain a maintenance plan that at a minimum is to designed to:

1. make available offender information that is timely, accurate and relevant to support the victim notification services;
2. verify the Certified Vendor's performance according to the COUNTY services contract;

3. satisfactorily discharge such COUNTY obligations as described in the COUNTY services contract.

2.5 Monitoring of Services; Statewide Stakeholders. COUNTY will inspect, monitor and verify the performances required of the Certified Vendor. COUNTY will reasonably cooperate with and participate in Statewide Stakeholders meetings and efforts to monitor and improve the services on a statewide basis. COUNTY may reasonably agree to designate third-parties to assist COUNTY and the other Statewide Stakeholders, in the overall monitoring, inspection and verification of the Certified Vendor's performances.

3. SCOPE OF SERVICES

3.1 Statewide Deliverables. The services are described by two sets of documents: (1) the Statewide Deliverables, and (2) the COUNTY Deliverables. The Statewide Deliverables describe the services and structure of the victim notification system on a statewide basis. The Statewide Deliverables may be modified from time to time by the OAG upon the recommendation of the Statewide Stakeholders Committee. The Statewide Deliverables include:

S-01	Service Specification
S-02	Questionnaire Template
S-03	Statewide Implementation Plan
S-04	Stakeholder Communication Plan
S-05	Call Center Infrastructure
S-06	County Implementation Plan Template
S-07	Web Sites(s)
S-08	Statewide Promotions Package
S-09	Internal Test Guide
S-10	Statewide Implementation Status Reports
S-11	Service Level Standards
S-12	Service Performance Reports
V-01	Vendor Certification

The Statewide Deliverables are incorporated herein by reference.

3.2 COUNTY Deliverables. The COUNTY deliverables reflect the Statewide Deliverables, as customized to meet the specific needs of COUNTY (COUNTY Deliverables). COUNTY deliverables include:

C-02	County Implementation Plan
C-03	County Infrastructure

C-04	Application Interface
C-05	Customer Verification Plan
C-06	County Support Document
C-07	County Promotions Package
C-08	Production Notice
C-09	County Web Access

County will implement these deliverable through the COUNTY services contract. After these deliverables are completed and approved by COUNTY, these COUNTY Deliverable are incorporated herein by reference.

3.3 Service Levels. Certain standards and levels of performance to be provided by the Certified Vendor to COUNTY are described in the Statewide Deliverable S-11 Service Level Standards and the COUNTY services contract. Other standards and levels of performance are described in the other Statewide and COUNTY Deliverables. COUNTY will inspect, monitor and verify the performances required of the Certified Vendor. In addition to the requirements in the COUNTY services contract to inspect, monitor and verify the performances required of the Certified Vendor, County agrees to register for, verify, and document at least eight (8) notification events each month. COUNTY will provide the OAG with periodic reports as requested by the OAG describing COUNTY monitoring, findings and observations.

3.4 XML Extract. To the extent permitted by law, COUNTY agrees to provide the OAG with a copy of data transmitted by COUNTY to the Certified Vendor. COUNTY authorized the Certified Vendor to directly provide such data to the OAG. The Parties agree that this data may be used to monitor COUNTY performance and the Certified Vendor's performance. This data may be used for such other purposes allowed by law. The data will be provided in such electronic format (including but not limited to an XML extract) as requested by the OAG.

3.5 COUNTY Scope of Services Obligations. For the purpose of this Agreement, the requirements, duties and obligations contained in the Statewide Deliverables, COUNTY Deliverables, Service Levels and other requirements of this section 3 are collectively referred to as the 'Scope of Work'. As a condition of reimbursement, County agrees to faithfully, timely and in a good and workman like manner implement and maintain the services in compliance with the Scope of Work.

4. REIMBURSEMENT

4.1 Maximum Liability of the OAG. The parties stipulate and agree that the total liability of the OAG to COUNTY in consideration of full, satisfactory and timely performance of all its duties, responsibilities, obligations, liability, and for

reimbursement of all expenses, if any, as set forth in this Agreement or arising out of any performance herein shall not exceed SEVENTY-SEVEN THOUSAND EIGHT HUNDRED NINETY AND NO/100 (\$77,890.00) DOLLARS for the Term of this Agreement. The parties stipulate and agree that any act, action or representation by either party, their agents or employee that purport to increase the liability of the OAG is void, without first executing a written amendment to this Agreement and specifically amending this section. The parties acknowledge and agree that nothing in this Agreement will be interpreted to create an obligation or liability in excess of the funds currently stated in this Agreement.

The parties acknowledge, stipulate and agree that funding for this Agreement is subject to the actual receipt of grant funds appropriated to the Office of the Attorney General and such funds are sufficient satisfy all of OAG's duties, responsibilities, obligations, liability, and for reimbursement of all expenses, if any, as set forth in this Agreement or arising out of any performance pursuant to this Agreement. The parties further understand, acknowledge, stipulate and agree that the grant funds, if any, received from the Office of the Attorney General are limited by the term of each state biennium and by specific appropriation authority to the Office of the Attorney General for the subject matter of this Agreement.

4.2 Grant Contract Not Entitlement or Right. COUNTY understands and agrees that: (1) reimbursement from grant funds is not an entitlement or right; and (2) it may not be reimbursed for costs incurred during the grant term or expenses paid during or subsequent to the grant term unless the COUNTY strictly complies with all terms, conditions, and provisions of this Agreement.

4.3 Reimbursable Cost; Generally. Upon evidence of satisfactory compliance with the terms and conditions of this Agreement, the OAG will reimburse COUNTY, subject to the limitations in Section 4.1, for such actual, reasonable and necessary amounts expended in the performance of this Agreement. Only those costs allowable under applicable UGMS cost principles are eligible for reimbursement under this contract. The COUNTY acknowledges that it is a sub-recipient of state pass-through funds from the Crime Victims Compensation Fund. Therefore, the following cost principles, audit requirements, and administrative requirements shall apply:

<u>Cost Principles</u>	<u>Administrative Requirements</u>	<u>Audit Requirements</u>
OMB A-87 as modified by UGMS	OMB A-102 as modified by UGMS	OMB A-133 as modified by UGMS

Uniform Grant Management Standards (UGMS) pursuant to Government Code Chapter 783	Uniform Grant Management Standards (UGMS) pursuant to Government Code Chapter 783	Texas State Single Audit Circular
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Copies of these documents referenced above will be provided to the COUNTY by OAG upon request and are incorporated by reference as a part of this Agreement.

Before incurring any out-of-state travel expenses, the COUNTY must obtain prior written authorization for that travel from the OAG.

To be eligible for reimbursement under this contract, a cost must have been incurred or obligated by the COUNTY within the applicable contract period prior to claiming reimbursement from the OAG. Costs incurred by the last day of the applicable contract term must be liquidated no later than 30 calendar days after the end of the applicable contract period.

If the COUNTY expends \$300,000 or more in state financial assistance during its fiscal year, it shall arrange for a single audit of that fiscal year. The audit must be conducted by an independent CPA and must be in accordance with the applicable government auditing standards, the Texas State Single Audit Circular and the UGMS published by the Governor's Office of Budget and Planning. For the purposes of this contract, the audit provisions of OMB Circular A-133 shall apply to county contracting entities.

If the COUNTY is expending less than \$300,000 in total state financial assistance during its fiscal year, it shall arrange for an annual independent financial audit in accordance with generally accepted government auditing standards of that fiscal year.

For purposes of this Article, the COUNTY shall comply with the applicable OMB Circulars with the following modifications: All references to "Federal Grantor Agency(ies)" shall be expanded to read "Federal or State Grant Agency(ies)." All references to "Federal Grant Funds" or "Federal Assistance" shall be expanded to read "Federal and State Assistance;" "Federal Law" shall be expanded to read "Federal or State Law;" and all references to "Federal Government" shall be expanded to read "Federal or State Government," as applicable.

In procuring any audit services required by this contract and/or by law, the COUNTY shall comply with applicable state procurement procedures, as well as any requirements found in UGMS regarding such procurement.

The COUNTY shall submit to the OAG two (2) bound copies of any and all applicable

audit reports, management letters, and management responses. Such reports, letters, and responses must be submitted on or before whichever of the following dates occurs first:

- a. thirty (30) days after the issuance of the audit report;
- b. within nine (9) months after the end of the audited fiscal year for those COUNTY whose fiscal year begins on or after October 1.

The COUNTY shall provide physical access, without prior notice, and shall direct any contractor and subcontractor to likewise grant access to all program delivery sites to representatives of the State of Texas and or the OAG.

4.4 Reimbursement; COUNTY Service Contract. Upon evidence of satisfactory compliance with the terms and conditions of this Agreement, the OAG will reimburse COUNTY such actual, reasonable and necessary amounts expended, subject to the limitations in Section 4.1, for the COUNTY Service Contract.

4.5 Advance Funding to COUNTY. In lieu of the reimbursement processes addressed above, the OAG will provide limited, advance funding to COUNTY, if the COUNTY states in writing that advance funding is required for implementation.

The OAG will provide an advance funding to COUNTY for the each payment milestone in the COUNTY Service Contract as follows: (1) an amount equal to the payment milestone 1 will be advanced to COUNTY no sooner than thirty (30) calendar days prior to the payment milestone becoming due and payable under the COUNTY Service Contract; (2) an amount equal to the payment milestone 2 will be advanced to COUNTY no sooner than thirty (30) calendar days prior to payment milestone becoming due and payable under the COUNTY Service Contract.

The COUNTY must submit an invoice to the OAG specifically requesting an advance funding, the amount of the payment and the invoice must state the date that the work underlying the payment milestone will be completed. The COUNTY should submit an invoice to the OAG no sooner than forty-five (45) days and no later than thirty (30) days before the COUNTY needs to receive the funding.

5. Invoice for Reimbursable Cost

5.1 Form of Invoice. The form of any invoice for reimbursement of expenses submitted under this section must comply with such invoicing requirements and such detail and supporting documentation that the OAG may from time to time require. The OAG is under no obligation to reimburse COUNTY if supporting documentation is not provided on a timely basis.

Each invoice presented must include the OAG's contract number. The invoice must identify COUNTY vendor identification number, a description of the expense, and a notation that the requested reimbursement in regards to the Crime Victim Services Division, Victim Notification Services Grants.

The invoices must be submitted to:

Attn.: Contract Processing
Office of the Attorney General
Accounting Division, Mail Code 003
Post Office Box 12548
Austin, Texas 78711-2548

5.2 Timing of Invoice. the COUNTY shall submit its claims for reimbursement to the OAG within twenty (20) calendar days following the end of the month that a reimbursable expenditure was incurred. The COUNTY may submit a make-up claim as a final close-out invoice not later than the earlier of (1) forty-five (45) calendar days after termination; or (2) forty-five (45) calendar days after the end of a state fiscal biennium.

5.3 Direct Deposit. The COUNTY may make a written request to the OAG to be placed on Direct Deposit status by completing and submitting to the OAG the State Comptroller's Direct Deposit Authorization Form. After the direct deposit request is approved by the OAG and the setup is completed on the Texas Identification Number System by the State Comptroller's Office, payment will be remitted by direct deposit and the OAG will discontinue providing the COUNTY with copies of reimbursement vouchers.

5.4 Excess Payments; Refund; Setoff. Payment under this Agreement will not foreclose the right of the OAG to recover excessive or unallowable payments from the COUNTY. The COUNTY shall refund to the OAG within thirty (30) calendar days from date of request any funds the COUNTY claims and receives from the OAG for the reimbursement of costs which are subsequently determined by the OAG to be ineligible for reimbursement.

The OAG will have the right to withhold all or part of any future payments to the COUNTY to offset any reimbursement made to the COUNTY for any ineligible expenditures not yet refunded to the OAG by COUNTY. The OAG may withhold reimbursement(s) from either this contract or an expired contract between the parties with the same funding source, in amounts necessary to fulfill the repayment obligations of the COUNTY.

6. AGREEMENT TERM

6.1 Initial Term. This term of this Agreement shall commence on July 1, 2003 and terminate on August 31, 2004, unless terminated earlier as provided by another provision of this Agreement. No commitment of grant funds is permitted prior to the first day or subsequent to the last day of the Initial Term. Nothing herein shall prevent the parties from revising the term of this Agreement by a written amendment.

6.2 Renewal Term. Subject to the availability of future grant funds for this Agreement, this Agreement may be renewed for an additional period to coincide with the term of future appropriations for the purposes of this Agreement. Such renewal shall be by a written amendment and executed with the same formalities as this Agreement.

7. TERMINATION

7.1 Termination for Convenience. Either Party may, in its sole discretion, terminate this Agreement in whole or in part, without recourse, liability or penalty, upon thirty (30) calendar days notice to other party.

7.2 Termination for Cause. In the event that COUNTY fails to perform its obligations according to the provisions of this Agreement, or fails to comply with any of the terms or conditions of this Agreement, the OAG may, upon written notice of default to COUNTY, immediately terminate all or any part of this Agreement. Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law, or under this Agreement.

7.3 Rights Upon Termination or Expiration. Upon termination of the Agreement for cause, all work product, Deliverables, equipment, all files, records, reports, data, intellectual property license or right and other documents obtained, used, prepared or otherwise developed by COUNTY in the performance of the scope of work authorized by this Agreement shall vest in the OAG, and upon request of the OAG shall be delivered to the OAG within thirty (30) business days after expiration or termination. The OAG is granted the unrestricted right to use, copy, modify, prepare derivative works, publish and distribute, at no additional cost to the OAG, in any manner the OAG deems appropriate in its sole discretion, any component of the work product or other deliverable made the subject of this Agreement.

8. Intellectual Property. The COUNTY understands and agrees that where funds obtained under this Agreement may be used to produce original books, manuals, films, or other original material and intellectual property, the COUNTY may copyright such material subject to the royalty-free, non-exclusive, and irrevocable license which is

hereby reserved to the OAG, or state government. The OAG is granted the unrestricted right to use, copy, modify, prepare derivative works, publish and distribute, at no additional cost to the OAG, in any manner the OAG deems appropriate in its sole discretion, any component of such intellectual property made the subject of this Agreement.

The COUNTY may publish at its expense the results of its contract performance if it first obtains prior OAG review of that publication. Any publication (written, visual, or sound) must include acknowledgment of the support received from the OAG and the appropriate state grant, if applicable. At least three (3) copies of any such publication must be provided to the OAG. The OAG reserves the right to require additional copies before or after the initial review. All copies shall be provided to the OAG free of charge.

9. AUDIT RIGHTS; RECORDS RETENTION

9.1 Duty to Maintain Records. COUNTY shall maintain adequate records to support its charges, procedures, and performances to OAG for all work related to this Agreement. COUNTY also shall maintain such records as are deemed necessary by the OAG, OAG's auditor, the OAG and auditors of the State of Texas, the United States, or such other persons or entities designated by the OAG, to ensure proper accounting for all costs and performances related to this Agreement.

9.2 Records Retention. COUNTY shall maintain and retain for a period of four (4) years after the submission of the final expenditure report, or until full and final resolution of all audit or litigation matters which arise after the expiration of the four (4) year period after the submission of the final expenditure report, whichever time period is longer, such records as are necessary to fully disclose the extent of services provided under this Agreement, including but not limited to any daily activity reports and time distribution and attendance records, and other records that may show the basis of the charges made or performances delivered.

9.3 Audit Trails. COUNTY shall maintain appropriate audit trails to provide accountability for updates to mission critical information, charges, procedures, and performances. Audit trails maintained by COUNTY will, at a minimum, identify the supporting documentation prepared by COUNTY to permit an audit of the system by tracing the activities of individuals through the system. COUNTY's automated systems must provide the means whereby authorized personnel have the ability to audit and to verify contractually required performances and to establish individual accountability for any action that can potentially cause access to, generation of, or modification of confidential information. COUNTY agrees that COUNTY's failure to maintain adequate audit trails and corresponding documentation shall create a presumption that the

services or performances were not performed.

9.4 Access. COUNTY shall grant access to all paper and electronic records, books, documents, accounting procedures, practices, and any other items relevant to the performance of this Agreement and the operation and management of COUNTY to the OAG, the State of Texas, the United States, or such other persons or entities designated by OAG for the purposes of inspecting, auditing, or copying such items. All records, books, documents, accounting procedures, practices, and any other items, in whatever form or media, relevant to the performance of this Agreement shall be subject to examination or audit in accordance with all contract performances and duties, all applicable state and federal laws, regulations or directives, by the OAG, the State of Texas, the United States, or such other persons or entities designated by OAG. COUNTY will direct any contractor to discharge COUNTY's obligations to likewise permit access to, inspection of, and reproduction of all books and records of the subcontractor(s) that pertain to this Agreement.

9.5 Location. Any audit of documents listed in Section 9.4 shall be conducted at the COUNTY's principal place of business and/or the location(s) of the COUNTY's operations during the COUNTY's normal business hours and at the OAG's expense. COUNTY shall provide to OAG and such auditors and inspectors as OAG may designate in writing, on COUNTY's premises (or if the audit is being performed of a subcontractor, the subcontractor's premises if necessary) space, office furnishings (including lockable cabinets), telephone and facsimile services, utilities and office-related equipment and duplicating services as OAG or such auditors and inspectors may reasonably require to perform the audits described in this Section 9.

9.6 Reimbursement. If an audit or examination reveals that COUNTY's invoices for the audited period are not accurate, COUNTY shall promptly reimburse OAG for the amount of any overcharge, unallowable or excessive amount.

9.7 Reports. COUNTY shall provide to OAG periodic status reports in accordance with OAG's audit procedures regarding COUNTY's resolution of any audit-related compliance activity for which COUNTY is responsible.

10. Independent Contractor Status and General Liability Provision. COUNTY shall be deemed to be an independent contractor hereunder and shall not be considered or permitted to be an agent, servant, joint venturer, joint enterpriser or partner of OAG. COUNTY agrees to take such steps as may be necessary to ensure that each contractor of COUNTY will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, joint enterpriser or partner of OAG. All persons furnished, used, retained, or hired by or on behalf of COUNTY or any of its subcontractors shall be considered to be solely the

employees or agents of COUNTY or such subcontractor, and COUNTY shall be responsible for ensuring that there is payment of any and all unemployment, social security, and other payroll taxes for such persons, including any related assessments or contributions required by law.

11. Publicity. COUNTY not shall use the other OAG's name or refer to the other Party directly or indirectly in any media release, public announcement or public disclosure relating to this Agreement or any acquisition pursuant hereto, including in any promotional or marketing materials, without consent from the OAG for each such use or release.

12. Amendment. This Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by authorized personnel of the Parties for that express purpose. All amendments or modifications of this Agreement shall be binding upon the Parties despite any lack of consideration. Any attempted amendment or modification of this Agreement that does not comply with this Section will be deemed void.

13. Non-waiver. The failure of any party to insist upon strict performance of any of the terms or conditions herein, irrespective of the length of time for which such failure shall continue, shall not be a waiver of that party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under this Agreement shall constitute a consent or waiver to or of any breach or default in the performance of the same or any other obligation of this Agreement. No term or provision of this Agreement or of any document incorporated herein by reference shall be deemed waived and no breach shall be deemed excused unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented.

14. Partial Invalidity. If any term or provision of this Agreement, or of any document incorporated herein by reference, shall be found to be illegal or unenforceable then, notwithstanding such illegality or unenforceability, this Agreement, and each incorporated document, shall remain in full force and effect and such term or provision shall be deemed to be deleted.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

17. Entire Agreement. This Agreement reflects the entire agreement between the Parties with respect to the subject matter therein described, and there are no other representations, understandings or agreements between the Parties relative to such

subject matter.

18. Governing Law; Venue. This Agreement is made and entered into in the State of Texas, and this Agreement and all disputes arising out of or relating thereto shall be governed by the laws of the State of Texas, without regard to any otherwise applicable conflict of law rules or requirements.

Except where state law establishes mandatory venue, COUNTY agrees that any action, suit, litigation or other proceeding (collectively "litigation") arising out of or in any way relating to this Agreement, or the matters referred to therein, shall be commenced exclusively in the Travis County District Court or the United States District Court in the Western District and Austin Division, and to the extent permitted by law, hereby irrevocably and unconditionally consent to the exclusive jurisdiction of those courts for the purpose of prosecuting and/or defending such litigation. COUNTY hereby waives and agrees not to assert by way of motion, as a defense, or otherwise, in any suit, action or proceeding, any claim that (a) COUNTY is not personally subject to the jurisdiction of the above-named courts, (b) the suit, action or proceeding is brought in an inconvenient forum or (c) the venue of the suit, action or proceeding.

19. Official Capacity. The Parties stipulate and agree that the signatories hereto are signing, executing and performing this Agreement only in their official capacity.

Office of the Attorney General of
Texas

WILLIAMSON COUNTY

Attorney General or his designee

John C. Daerfler

County Judge
Title

Date: _____

Date: 8-19-03

AGENDA ITEM 24

Consider awarding contract for workers' compensation insurance coverage and/or third party administrative services and excess insurance coverage.

This item was tabled until next week.

AGENDA ITEM 25

Consider approving Joint Election Agreement with the City of Cedar Park for September 13, 2003, Special Election.

Moved: **Commissioner Heiligenstein**

Seconded: **Judge Doerfler**


Motion: To approve the Joint Election Agreement with the City of Cedar Park for September 13, 2003, Special Election.

Vote: **5 - 0**

<Attachment>

ORDER ADOPTING JOINT ELECTION AGREEMENT

On this the 19th day of August, 2003, the Commissioners' Court of Williamson County, Texas, does hereby approve the recommendation of the elections administrator to participate in a Joint Election Agreement with the city of Cedar Park for the purpose of sharing early voting and election-day polling locations, ballots, election workers, supplies, and equipment to the maximum extent feasible under the law.


John C. Doerfler
County Judge