

SUBSCRIPTION LICENSE AND SERVICES AGREEMENT

AGREEMENT NUMBER: _____

THIS SUBSCRIPTION LICENSE AND SERVICES AGREEMENT (the “Agreement”) is between **Infor (US), Inc.** (“Infor”) and **Fort Bend County** (“Licensee”) as of the Effective Date. The parties agree as follows:

1. Definitions.

- (a) “**Affiliate**” means any entity, directly or indirectly, controlling, controlled by, or under common control with, Infor.
- (b) “**Best Reasonable**” or “**Best Commercially Reasonable**” means that Infor will use efforts to render the respective services under the Agreement in the best reasonable or best commercially reasonable manner that is no less favorable to the Licensee than the same services that Infor provides to its other customers.
- (c) “**Authorized Users**” means: (i) Licensee’s employees, as determined by Licensee; and (ii) contractors authorized by Licensee to access the Subscription Software, who, prior to obtaining access to the Subscription Software have executed an agreement that protects Infor’s Confidential Information to a substantially similar extent as set forth in this Agreement, in each case registered in the database with a unique UserID and a unique password.
- (d) “**Confidential Information**” means non-public information that is identified as or would be reasonably understood to be confidential and/or proprietary. Confidential Information of Infor includes, without limitation, the Documentation and the Subscription Software, including any software code and all algorithms, methods, techniques, and processes revealed or utilized therein. Confidential Information of Licensee includes Licensee Data and any information Infor or its agents obtains from Licensee in performance of this Agreement that (1) is not publicly available or that could be made available under Texas Public Information Act, and (2) that Licensee uses reasonable efforts to maintain the confidentiality of such information. Confidential Information does not include information that: (i) is or becomes known to the public without fault or breach of the Recipient; (ii) the Discloser regularly discloses to third parties without restriction on disclosure; (iii) the Recipient obtains from a third party without restriction on disclosure and without breach of a non-disclosure obligation known to Recipient; or (iv) is independently developed by the Recipient without use of Confidential Information.
- (e) “**Discloser**” means the party providing Confidential Information to the Recipient.
- (f) “**Documentation**” means the then-current Infor-provided documentation relating to the features, functions, and use of the Subscription Software.
- (g) “**Documented Defect**” means a material deviation between the then-current, general release version of the Subscription Software and its Documentation.
- (h) “**Effective Date**” means the date identified on the signature page of this Agreement as the Effective Date.
- (i) “**Initial Subscription Term**” means the initial subscription period set forth on the applicable Order Form.
- (j) “**Intellectual Property Rights**” means any and all rights in patents, copyrights, trademarks, and service marks.
- (k) “**Licensee Data**” means information provided, entered, or uploaded for use by or with the Subscription Software by the Licensee or its Authorized Users.
- (l) “**License Restriction**” means any limitation on the use of the Subscription Software identified in an Order Form (e.g., number of Authorized Users, locations, connections).
- (m) “**Order Form**” means each order form between the parties incorporating the terms of this Agreement which shall contain, without limitation, a list of the Subscription Software and associated quantity and License Restriction, a description of the Subscription Services, Subscription Fees, and payment terms.
- (n) “**Personal Information**” means information provided to Infor by or at the direction of Licensee, or to which access was provided to Infor in the course of Infor’s performance under this Agreement that: (i) identifies or can be used to identify an individual (including, without limitation, names, signatures, addresses, telephone numbers, e-mail addresses and other unique identifiers); or (ii) can be used to authenticate an individual (including, without limitation, employee identification numbers, government-issued identification numbers, passwords or PINs, financial account numbers, credit report information, biometric or health data, answers to security questions and other personal identifiers). Personal Information shall include any non-public personal information regarding any individual that is subject to applicable national, state, regional, and/or local laws and regulations governing the privacy, security, confidentiality, and protection of non-public personal information.
- (o) “**Recipient**” means the party receiving Confidential Information of the Discloser.
- (p) “**Renewal Term**” means any renewal or extension of Licensee’s license to use the Subscription Software following the expiration of the Initial Subscription Term.

- (q) **“Residual Knowledge”** shall mean ideas, concepts, know-how, or techniques related to the Discloser's technology and Confidential Information that are retained in the unaided memories of the Recipient who had rightful access to Confidential Information.
- (r) **“Service Level Description”** means the Service Level Description document applicable to the Subscription Services and attached as an exhibit to an Order Form.
- (s) **“Subscription Fees”** means the fees for the Subscription Services set forth on the applicable Order Form.
- (t) **“Subscription Services”** means the Subscription Software-related application hosting services and Support (as defined in Section 3(b)) that Infor provides Licensee under this Agreement.
- (u) **“Subscription Software”** means collectively or individually the computer software programs identified in the applicable Order Form for which Infor is providing the Subscription Services.
- (v) **“Subscription Term”** means the Initial Subscription Term or any Renewal Term, as applicable.
- (w) **“Third Party Licensor”** means a third party whose software products (**“Third Party Products”**) have been made available to Infor for distribution and licensing under the terms of its agreement with Infor (a **“Third Party Agreement”**).
- (x) **“Updates”** means generally available updates, enhancements or modifications to the then-current, general release version of the Subscription Software that are not separately priced or licensed as new products.
- (y) **“UserID”** means a unique user identification credential used in combination with a unique password to access the Subscription Services.

2. **License.** Subject to the terms and conditions of this Agreement and the applicable Order Form, Infor hereby grants to Licensee a non-exclusive, non-transferable, limited license (without the right to sublease or sublicense) to access and use the Subscription Software and the Subscription Services, during the Subscription Term, in an operating environment hosted by Infor, for Licensee's own internal use. Any rights not expressly granted in this Agreement are expressly reserved.

- (a) **Documentation.** Licensee may make a reasonable number of copies of the Documentation for the Subscription Software for its internal use in accordance with the terms of this Agreement.
- (b) **License Restriction.** Licensee's use of the Subscription Software and Subscription Services is subject to any License Restriction specified in the applicable Order Form.
- (c) **Additional Restrictions on Use of the Subscription Software and Subscription Services.** In no event shall Licensee access the Subscription Software on any environment outside the hosted environment selected by Infor as part of the Subscription Services. In no event shall Licensee or its Authorized Users possess or control the Subscription Software or any related software code. Licensee is prohibited from causing or permitting the

reverse engineering, disassembly, or de-compilation of the Subscription Software. Except as expressly provided by this Agreement, Licensee is prohibited from using the Subscription Software to provide service bureau services to third parties. Licensee will not allow the Subscription Software to be used by, or disclose all or any part of the Subscription Software to, any person except Authorized Users. Licensee and Infor acknowledge and agree that U.S. export control laws and other applicable export and import laws govern the use of the Subscription Software and Licensee and Infor will neither export or re-export, directly or indirectly, the Subscription Software, nor any direct product thereof in violation of such laws, or use the Subscription Software for any purpose prohibited by such laws.

- (d) **Intellectual Property Rights Notices.** Licensee is prohibited from removing or altering any of the Intellectual Property Rights notice(s) embedded in the Subscription Software or that Infor otherwise provides with the Subscription Services. Licensee must reproduce the unaltered Intellectual Property Rights notice(s) in any full or partial copies that Licensee makes of the Documentation.
- (e) **Ownership.** Use of the Subscription Software and Subscription Services does not grant any ownership rights in or to the Subscription Software, the Subscription Services, or the Documentation. Licensee Data shall be the sole property of Licensee; however, Infor may aggregate anonymous statistical data regarding use and functioning of its system by its various licensees, and all such data (none of which shall be considered Licensee Data), will be the sole property of Infor.

3. **Subscription Services.**

- (a) **Hosted Environment.** Infor will provide the application hosting environment, including the hardware, equipment, and systems software configuration on which Infor supports use of the Subscription Software and Subscription Services, on servers located at a facility selected by Infor. Upon written request by Licensee, Infor will provide Licensee with the service provider's name and country location of any server facility selected by Infor. Allocations of disk space will not be restricted and will be commensurate with the normal utilization of the Subscription Software. Licensee will not encounter a fee assessment or any other penalty related to disk space utilization.
- (b) **Support.** Infor shall (a) provide Licensee with access (via the internet, telephone or other means established by Infor) to Infor's support helpline, (b) install, when and if generally available, Updates; and (c) use Best Reasonable Efforts to correct or circumvent any material deviation between the then-current, general release version of the Subscription Software and its Documentation (the foregoing referred to collectively as "Support"). Support is included in the Subscription Fee. A more detailed description of Support is available in the then-current version of the Infor Single Tenant CloudSuite Support Operations Guide, available at inforxtreme.com.
- (c) **User Accounts.** Licensee is responsible for maintaining its own Authorized User UserIDs and passwords which can be managed through the Subscription Software interface. Licensee is responsible for maintaining the confidentiality

of Licensee's UserIDs and passwords and shall cause its Authorized Users to maintain the confidentiality of their UserIDs and Passwords. Licensee is responsible for all uses of and activities undertaken with UserIDs registered on Licensee's account. Licensee agrees to immediately notify Infor of any unauthorized use of Licensee's UserIDs of which Licensee becomes aware.

- (d) **Connectivity.** Infor will be responsible for maintaining connectivity from its network to the Internet which is capable of servicing the relevant (at a minimum, to accommodate the maximum number of Licensee's concurrent users) Internet traffic to and from the hosted environment. Licensee is responsible for providing connectivity to the Internet for itself and its Authorized Users. Licensee shall also be responsible for ensuring that latency and available bandwidth from the user's desktop to Infor's hosted routers is adequate to meet Licensee's desired level of performance. If Licensee requires a VPN or private network connection to the Subscription Services, Licensee is responsible for all costs associated with any specialized network connectivity required by Licensee.
- (e) **Restrictions.** Infor shall have no obligation to correct a problem caused by Licensee's negligence, Licensee's equipment malfunction or other causes beyond the *direct* control of Infor.

4. Payment and Taxes.

- (a) **Payment.** Licensee shall pay Infor the Subscription Fees set forth in the Order Form. Subscription Fees are payable in advance and Infor will invoice Licensee for Subscription Fees prior to the commencement of the portion of the Subscription Term to which such fees apply. After the Initial Subscription Term, the Subscription Fees shall be subject to annual adjustment. Except as otherwise set forth in this Agreement, Subscription Fees are non-refundable. Licensee will pay each Infor invoice in accordance with the payment terms set forth on the Order Form. Late payments are subject to a late charge in accordance with Chapter 2251 of the Texas Government Code. Notwithstanding anything to the contrary in this Agreement, Infor reserves the right to suspend access to the Subscription Services in the event of any past due Subscription Fees.
- (b) **Taxes.** Licensee is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request and Infor will not invoice Licensee for any applicable sales and use taxes under this Agreement so long as Licensee maintains its tax-exempt status.

5. Limited Warranties, Disclaimer of Warranties, and Remedies.

- (a) **Right to Grant License.** Infor warrants that that it owns all right, title and interest in and to the Subscription Software or has obtained rights in such Subscription Software sufficient to grant the licenses granted to Licensee under this Agreement. Licensee's exclusive remedy, and Infor's exclusive obligation, for a breach of this warranty is set forth in Section 7 (Indemnity).
- (b) **Limited Subscription Software Warranty by Infor and Remedy For Breach.** Infor warrants that the Subscription Software licensed to Licensee will operate without a Documented Defect for a period of two (2) years from the

applicable Subscription Service ReadyDate defined in the applicable Order Form. Infor's sole obligation with respect to a breach of the foregoing warranty shall be to repair or replace the Subscription Software giving rise to the breach of warranty. If Infor is unable to repair or replace such Subscription Software within a reasonable period of time, then, subject to the limitations set forth in Section 14 of this Agreement, Licensee may pursue its remedies at law to recover direct damages resulting from the breach of this warranty. The remedies in this Section 5(b) are exclusive and in lieu of all other remedies, and represent Infor's sole obligations, for a breach of the foregoing warranty. Licensee must provide notice to Infor of any warranty claim within the warranty period. For clarity, Licensee's entitlement to Support (as defined in Section 3(b)) in connection with any Documented Defect shall continue throughout the Subscription Term.

- (c) **Malicious Code.** Infor represents that it has used commercially reasonable best efforts utilizing generally accepted industry tools and practices to provide Subscription Software that does not contain any "time bombs," "worms," "viruses," "Trojan horses," "protect codes," "data destruct keys," or other programming devices that are intended to access, modify, delete, damage, deactivate or disable the Subscription Services ("Malicious Code"). As Licensee's sole remedy for breach of this representation, Infor shall take action immediately to investigate, identify and remove such Malicious Code from the Subscription Software.
- (d) **Limited Services Warranty and Remedy For Breach.** Infor warrants to Licensee that, Infor will render the Subscription Services with Best Commercially Reasonable care and skill. Infor further warrants that the hosted environment will be available at all times throughout the Subscription Term, subject to the exceptions and allowances described in the Availability section of the applicable Service Level Description (as attached to each applicable Order Form). The level of unavailability shall not exceed one-half of one percent (0.5%) per month, excluding Scheduled Maintenance as described in the applicable Service Level Description (the "Down Time Warranty"). In the event of a breach of the foregoing warranty Infor shall apply service level credits based on the actual availability measure for the applicable period as follows:

<u>Availability</u>	<u>Service Level Credit</u>
99.500% or greater	No Service Level Credit
99.499% - 99.000%	5% of the monthly prorated subscription fee
98.999% - 98.500%	15% of the monthly prorated subscription fee
98.499% - 95.000%	25% of the monthly prorated subscription fee
Below 95.000%	35% of the monthly prorated subscription fee

Service level credits for Subscription Fees paid on an annual basis shall be based on a monthly equivalent fee. For example, a 5% service level credit on an annual

subscription fee shall be 5% of 1/12 of the annual fee. Service level credits shall be applied to Licensee's next invoice or, if Licensee has paid the final invoice under this Agreement, service level credits shall be paid to Licensee within thirty (30) calendar days following the determination that the credit is due. In the event that the level of availability falls below 95% in two (2) consecutive months, or any four (4) months in an annual Subscription Term, due to reasons other than the exceptions and allowances described in the Availability section of the applicable Service Level Description, then Licensee may terminate this Agreement at its election, and without penalty, by providing Infor with written notice of such election. In the event the Subscription Service is unavailable to Licensee due to a dispute between Infor and Infor's infrastructure provider, then Infor will apply credits to Licensee's account on a pro-rata basis for each day that the Subscription Service is unavailable for that day. For example, a full day of disrupted service would equal a credit of 1/365th of the annual Subscription Fee. Credits would not apply to partial days. Licensee may not recover credits for breach of the Downtime Warranty and service provider disputes for the same period of unavailability. The remedies set forth in this subsection (d) are the exclusive remedies for Infor's breach of the Down Time Warranty.

- (e) **Disclaimer of Warranties.** The limited warranties in this Section 5 are made to Licensee exclusively and are in lieu of all other warranties. **INFOR MAKES NO OTHER WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH REGARD TO THE SUBSCRIPTION SOFTWARE AND SUBSCRIPTION SERVICES PROVIDED UNDER THIS AGREEMENT AND/OR ANY ORDER FORM, IN WHOLE OR IN PART. INFOR EXPLICITLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. INFOR EXPRESSLY DOES NOT WARRANT THAT THE SUBSCRIPTION SOFTWARE OR SUBSCRIPTION SERVICES, IN WHOLE OR IN PART, WILL BE ERROR FREE, OPERATE WITHOUT INTERRUPTION OR MEET LICENSEE'S REQUIREMENTS.**
- (f) **Abrogation of Limited Warranty.** Infor will have no obligation under this Section 5 to the extent that any alleged breach of warranty is caused by any modification of the Subscription Software not performed by or on behalf of Infor. To the extent that an alleged breach of warranty concerns a Third Party Product that is subject to a more limited warranty under a Third Party Agreement than specified in Section 5 above, Infor's obligations hereunder will be further limited accordingly.
- (g) **FAILURE OF ESSENTIAL PURPOSE. THE PARTIES HAVE AGREED THAT THE LIMITATIONS SPECIFIED IN SECTIONS 5 AND 14 WILL SURVIVE AND APPLY EVEN IF ANY REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE, AND REGARDLESS OF WHETHER LICENSEE HAS ACCEPTED ANY SUBSCRIPTION SOFTWARE OR SUBSCRIPTION SERVICE UNDER THIS AGREEMENT.**
- (h) **HIGH RISK ACTIVITIES. THE SUBSCRIPTION SOFTWARE IS NOT FAULT-TOLERANT AND IS**

NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE AS ON-LINE CONTROL EQUIPMENT IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR AIRCRAFT COMMUNICATION SYSTEMS, MASS TRANSIT, AIR TRAFFIC CONTROL, DIRECT LIFE SUPPORT MACHINES, OR WEAPONS SYSTEMS, IN WHICH THE FAILURE OF THE SUBSCRIPTION SOFTWARE COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE ("HIGH RISK ACTIVITIES"). ACCORDINGLY, INFOR DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES. LICENSEE AGREES THAT INFOR SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM OR RELATED TO THE USE OF THE SUBSCRIPTION SOFTWARE IN SUCH APPLICATIONS.

- (i) **Dissolution.** In the event that Infor dissolves or becomes insolvent and cannot provide Licensee with the Subscription License and Services as set forth in this Agreement and any Order Form, and there is no successor company of Infor that can continue to perform Infor's obligations under this Agreement, then Infor will make available to Licensee the current version of the software that Licensee is accessing in a hosted environment under this Agreement, provided that: (1) Licensee has a perpetual license for the necessary user quantities for such software or Component System, and (2) Licensee reinstates Support on such software or Component Systems to the extent that such Support is made commercially available to customers by Infor or its successor.
- (j) **Insurance.** Prior to commencement of the services under this Agreement, Infor shall furnish Licensee with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to Licensee. Infor shall provide certified copies of insurance endorsements if requested by Licensee. Infor shall maintain such insurance coverage during the Term of this Agreement and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to termination of the Agreement. Infor shall obtain such insurance written on an Occurrence form from such companies having Bests' rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
- A. Commercial General Liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
- B. Professional Liability insurance with limits not less than \$1,000,000.
- C. Cyber Liability insurance with limits not less than \$1,000,000. Such insurance may be included with Infor's Professional Liability insurance policy.

- D. Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.
- E. Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance will not be allowed. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease. Licensee and the members of Licensee's Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation. Except for Infor's Professional Liability policy, all Liability policies including Workers' Compensation written on behalf of Infor shall contain a waiver of subrogation in favor of Licensee and members of Licensee's Commissioners Court.

6. Confidential Information.

- (a) Confidentiality. The Confidential Information disclosed under this Agreement may be used, disclosed or reproduced only to the extent necessary to further and fulfill the purposes of this Agreement. Except as otherwise permitted under this Agreement, the Recipient will not knowingly disclose to any third party, or make any use of the Discloser's Confidential Information. The Recipient will use at least the same standard of care to maintain the confidentiality of the Discloser's Confidential Information that it uses to maintain the confidentiality of its own Confidential Information, but in no event less than reasonable care. The non-disclosure and non-use obligations of this Agreement will remain in full force with respect to each item of Confidential Information for a period of five (5) years after Recipient's receipt of that item; provided, however, that Licensee's obligations to maintain the confidentiality of the Subscription Software and Documentation will continue for a period of five (5) years after the later of (i) termination of this Agreement, or (ii) Infor's receipt of Licensee's certification that the Subscription Software and Documentation have been destroyed. Each of Licensee and Infor shall be responsible for the breach of the confidentiality terms contained in this section 6 by any of its directors, officers, employees, Authorized Users, agents, accountants and advisors. Notwithstanding the foregoing, this Section is not intended to prevent (a) a Recipient from using Residual Knowledge, subject to any Intellectual Property Rights of the Discloser, or (b) Infor from using aggregated data regarding the use of the Subscription Services to provide reports or analytics to Licensee or to improve the performance of Infor's products, provided such data does not contain any Personal Information regarding Licensee, its employees, customers or Authorized Users. If the Recipient should receive any legal request or process in any form seeking disclosure of Discloser's Confidential Information, or if the Recipient should be advised by counsel of any obligation to disclose such Confidential Information, the Recipient shall (if allowed by law) provide the Discloser with prompt notice of such request or advice so that the Discloser may seek a protective order or pursue other appropriate assurance of the confidential treatment of the Confidential Information. Regardless of whether or not a protective order or other assurance is obtained, the Recipient shall furnish only that portion of

the Discloser's Confidential Information which is legally required to be furnished and to use reasonable efforts to assure that the information is maintained in confidence by the party to whom it is furnished. Licensor expressly acknowledges that Licensee is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 et seq., as amended, and notwithstanding any provision in the Agreement to the contrary, Licensee will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Licensee will provide Infor with prompt written notice of any request under the Texas Public Information Act for the disclosure of information defined as Confidential Information or labeled as such by Infor, so that Infor may notify the Attorney General of the reasons why such Confidential Information should not be disclosed under applicable law. The terms and conditions of the Agreement are not proprietary or Confidential Information.

- (b) Security Policies and Safeguards. Infor shall establish and maintain administrative, technical, and physical safeguards designed to protect against the destruction, loss, unauthorized access or alteration of Licensee Data and Personal Information in the possession or under the control of Infor or to which Infor has access, which are: (i) no less rigorous than those maintained by Infor for its own information of a similar nature; (ii) no less rigorous than generally accepted industry standards; and (iii) required by applicable laws. The security procedures and safeguards implemented and maintained by Infor pursuant to this Section 6(b) shall include, without limitation:
 - (i) user identification and access controls designed to limit access to Licensee's Data to Authorized Users;
 - (ii) the use of appropriate procedures and technical controls regulating data entering Infor's network from any external source;
 - (iii) the use of encryption techniques when Licensee's Data is transmitted or transferred into or out of the hosted environment;
 - (iv) physical security measures, including without limitation securing Licensee's Data within a secure facility where only authorized personnel and agents will have physical access to Licensee Data;
 - (v) operational measures, including without limitation IT Service Management (ITSM) processes designed to ensure the correct and secure operations of information processing activities;
 - (vi) periodic employee training regarding the security programs referenced in this section; and
 - (vii) periodic testing of the systems and procedures outlined in this section.
- (c) Review of Controls. Once in each 12-month period during the Subscription Term, Infor shall, at its cost and expense, engage a duly qualified independent auditor to conduct a review of the design and operating effectiveness of Infor's defined control objectives and control activities in connection with the Subscription Services. Infor shall cause such auditor to prepare a report in accordance with the American Institute of Certified Public Accountants Statement on Standards for Attestation Engagements No. 16 (SSAE 16) or an equivalent standard, which may

include ISAE 3402 (the "Audit Report"). Licensee shall have the right to request and receive a copy of the Audit Report and Licensee may share a copy of such Audit Report with its auditors and regulators, provided that, such Audit Report shall be Infor's Confidential Information (as defined in this Agreement).

- (d) **Security Incident Response.** In the event that Infor becomes aware that the security of any Licensee Data or Personal Information has been compromised, or that such Licensee Data or Personal Information has been or is reasonably expected to be subject to a use or disclosure not authorized by this Agreement (an "Information Security Incident"), Infor shall: (i) promptly (and in any event within 24 hours of becoming aware of such Information Security Incident), notify Licensee, in writing, of the occurrence of such Information Security Incident; (ii) investigate such Information Security Incident and conduct a reasonable analysis of the cause(s) of such Information Security Incident; (iii) provide periodic updates of any ongoing investigation to Licensee; (iv) develop and implement an appropriate plan to remediate the cause of such Information Security Incident to the extent such cause is due to the services provided by Infor under this Agreement; and (v) cooperate with Licensee's reasonable investigation or Licensee's efforts to comply with any notification or other regulatory requirements applicable to such Information Security Incident.
- (e) In the event of an Information Security Incident as described in Subsection 6(d) above, to the extent that such Information Security Incident is caused by Infor's breach of this Agreement, then Infor will indemnify Licensee against any claims by Licensee's Authorized Users and any losses due to third party claims that result from such breach, as provided by, and subject to, the limitations set forth in Section 14(c) of this Agreement. Licensee will cooperate with Infor in responding to an Information Security Incident as provided by section 6 and section 14 of this Agreement.

7. **Indemnity by Infor.**

- (a) Infor will defend, indemnify and hold Licensee harmless from and against any loss, cost and expense to the extent arising from a third party claim against Licensee that the Subscription Software infringes any Intellectual Property Rights of others. Infor's obligations under this indemnification are expressly conditioned on the following: (i) Licensee must promptly notify Infor of any such claim; (ii) Licensee must, in writing, grant Infor sole control of the defense of any such claim and of all negotiations for its settlement or compromise so long as such settlement or compromise does not result in payment of money by Licensee or an admission of guilt by Licensee (if Licensee chooses to represent its own interests in any such action, Licensee may do so at its own expense, but such representation must not prejudice Infor's right to control the defense of the claim and negotiate its settlement or compromise); (iii) Licensee must reasonably cooperate with Infor to facilitate the settlement or defense of the claim. Infor will not have any liability hereunder to the extent the claim arises from (a) any modification of the Subscription Software by, on behalf of, or at the request of Licensee; or (b) the use or combination of the Subscription Software with any computer, computer platform, operating system and/or data base management system other than provided by Infor. If any Subscription Software is, or in

Infor's opinion is likely to become, the subject of an Intellectual Property Rights infringement claim, then Infor, at its sole option and expense, will either: (A) obtain for Licensee the right to continue using the Subscription Software under the terms of this Agreement; (B) replace the Subscription Software with products that are substantially equivalent in function, or modify the Subscription Software so that it becomes non-infringing and substantially equivalent in function; or (C) refund to Licensee the un-used portion of the Subscription Services fee, if any, paid to Infor for the Subscription Software giving rise to the infringement claim, and discontinue Licensee's use of such Subscription Software. **THE FOREGOING SETS FORTH INFOR'S EXCLUSIVE OBLIGATION AND LIABILITY WITH RESPECT TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.**

- (b) **Injury and Property Damage Indemnification.** Infor agrees to defend and indemnify the Licensee and its respective officers, employees and agents from and against third party claims, actions and suits, for personal bodily injury to, or death of, any person, or loss or damage to real or tangible personal property arising out of, or resulting from, the grossly negligent acts of Infor if the Licensee: (a) notifies Infor in writing of the suit or claim within fifteen (15) days after the Licensee receives notice or promptly after such 15 day period so long as such later notice by the Licensee to Infor does not prejudice the rights of Infor (b) gives Infor sole authority to defend or settle the suit or claim at Infor's expense; (c) gives Infor all information in the Licensee's reasonable control concerning the suit or claim; and (d) reasonably cooperates and assists Infor with defense of the suit or claim. The provisions of this section shall survive the termination of this agreement. The parties will each use reasonable efforts to mitigate their damages.

8. **Term and Termination.**

- (a) **Term.** With respect to the Subscription Software, the Initial Subscription Term shall be as set forth on the applicable Order Form. After the Initial Subscription Term, the Subscription Term shall automatically renew for successive one-year Renewal Terms, unless either party provides written notice of non-renewal to the other party at least sixty (60) days prior to expiration of the Initial Subscription Term or then current Renewal Term, as the case may be. Except as set forth in Section 8(b), the Subscription Term cannot be terminated prior to its expiration date.
- (b) **Right of Termination.** If either party breaches any material obligation in this Agreement or an Order Form (including, without limitation, any obligation to pay Subscription Fees), and fails to remedy such breach (if such breach can be remedied) within thirty (30) days of receipt of written notice of such breach, the other party may terminate this Agreement (including all Order Forms hereunder). Notwithstanding the foregoing, to the extent such material breach cannot be remedied through efforts of the breaching party, the other party has the right to terminate this Agreement (including all Order Forms hereunder) on less than thirty days' written notice. Licensee warrants that it will exert all reasonable, good faith efforts, and do all things lawfully necessary and proper, to obtain sufficient funding from which payments for services hereunder may be made. It is specifically understood and agreed that in the

event no funds or insufficient funds are appropriated by Licensee under this Agreement, Licensee shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Licensee; provided, however, that Licensee must notify Infor of such non-appropriation of funding prior to the last day for which Licensee has paid for the Subscription Services under this Agreement.

- (c) **Effect of Termination.** Upon termination of this Agreement by either party, Licensee's license to access and use the Subscription Software and Subscription Services shall immediately terminate as of the effective date of such termination. Termination of this Agreement will not release either party from making payments which may be owing to the other party under the terms of this Agreement through the effective date of such termination. Termination of this Agreement will be without prejudice to the terminating party's other rights and remedies pursuant to this Agreement, unless otherwise expressly stated herein.
- (d) **Return of Licensee Data.** Upon termination or expiration of this Agreement, Infor shall promptly make all Licensee Data available, at no additional cost, to Licensee as a native database export provided through Infor's FTP server. The data shall be provided within fourteen (14) business days of Licensee's request. In the event that Licensee requires the return of Licensee Data in an alternate format or requires any other termination assistance services, Infor and Licensee shall mutually agree upon the scope of such termination assistance services and the fees and expenses payable for such termination assistance services.
- (e) **Survival of Obligations.** All obligations relating to non-use and non-disclosure of Confidential Information, limitation of liability, and such other terms which by their nature survive termination, will survive termination or expiration of this Agreement.
- (f) **Conversion.** Licensee retains its perpetually licensed Component Systems for as long as it chooses, subject to the terms and conditions of the governing license agreement and the quantities set forth in its previously executed order form(s), provided the term of the license has not expired (if the license is not perpetual). If the Subscription Software licenses under this Order Form expire or are terminated, provided Licensee reinstates and pays for Support for its perpetually licensed Component Systems with no gap from the termination of the Subscription Software licensed herein, Licensee reserves the right to obtain updates/new releases of the perpetually licensed Component Systems, using the same licensing metrics, to reflect the then-current version being provided hereunder for the Subscription Software, without cost, penalty, or additional fee. Upon the expiration or termination of the Initial Subscription Term (and any Renewal Term(s)) hereunder, Licensee may reinstate Support on its perpetually licensed Component Systems at the then-prevailing rate.
9. **Notices.** All notices and other communications required or permitted under this Agreement must be in writing and will be deemed given when: delivered personally; sent by registered or certified mail, return receipt requested; transmitted by facsimile confirmed by first class mail; or sent by overnight courier. Notices must be sent to a party at its address shown on the

signature page of this Agreement, or to such other place as the party may subsequently designate for its receipt of notices in accordance with this Section. Licensee must promptly send copies of any notice as provided by section 6(a) (requests for information under the Texas Public Information Act), material breach, and/or termination of the Agreement to Infor, Attention: General Counsel, 40 General Warren Blvd Suite # 110, Malvern, PA 19355, USA, FAX number 678-319-8949, or to such other place as Infor may subsequently designate for its receipt of notices.

10. **Force Majeure.** Except with respect to the payment of fees hereunder, neither party will be liable to the other for any failure or delay in performance under this Agreement due to circumstances beyond its reasonable control, including, without limitation, Acts of God, war, terrorist acts, accident, labor disruption, acts, omissions and defaults of third parties and official, governmental and judicial action not the fault of the party failing or delaying in performance, or the threat of any of the foregoing.
11. **Assignment.** Neither party may assign this Agreement without the prior consent of the other party, which shall not be unreasonably withheld. Infor may assign this Agreement by operation of law or otherwise, including in connection with a change in control, merger, acquisition, consolidation, asset sale or other reorganization. In the event Infor assigns this Agreement in accordance with this section, Infor will provide written notice to Licensee of said assignment no later than sixty (60) days after the date of assignment.
12. **No Waiver.** A party's failure to enforce its rights with respect to any single or continuing breach of this Agreement will not act as a waiver of the right of that party to later enforce any such rights or to enforce any other or any subsequent breach.
13. **Choice of Law; Severability.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the Licensee's sovereign immunity.
14. **LIMITATIONS OF LIABILITY.**
- (a) **LIMITED LIABILITY OF INFOR, EXCEPT AS SET FORTH IN SUBSECTION (C) BELOW, THE TOTAL LIABILITY OF INFOR, ITS AFFILIATES AND THIRD PARTY LICENSORS IN CONNECTION WITH OR RELATED TO THE SUBSCRIPTION SOFTWARE, THE SUBSCRIPTION SERVICES, OR ANY OTHER MATTER RELATING TO THIS AGREEMENT (WHATEVER THE BASIS FOR THE CAUSE OF ACTION) WILL NOT EXCEED THE SUBSCRIPTION FEES PAID OR PAYABLE TO INFOR HEREUNDER FOR THE TWELVE-MONTH PERIOD IN WHICH SUCH LIABILITY FIRST AROSE.**
- (b) **EXCLUSION OF DAMAGES. IN NO EVENT WILL INFOR, ITS AFFILIATES OR THIRD PARTY LICENSORS BE LIABLE FOR ANY SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST PROFITS, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR**

OTHERWISE, AND REGARDLESS OF WHETHER INFOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE.

- (c) **LIMITED LIABILITY FOR DISCLOSURE OF PERSONAL INFORMATION. WITH RESPECT TO UNAUTHORIZED DISCLOSURE OF LICENSEE'S PERSONAL INFORMATION RESULTING FROM INFOR'S BREACH OF THIS AGREEMENT UNDER SECTION 6 (CONFIDENTIAL INFORMATION), INFOR'S SOLE OBLIGATION SHALL BE TO PROVIDE THE FOLLOWING (A) INDEMNIFICATION OF THE LICENSEE AS SET FORTH IN SECTION 6(E) ABOVE, SUBJECT TO THE MONETARY CAP BELOW, AND (B) WITH RESPECT TO THE PROVISION OF NOTIFICATIONS AND CREDIT MONITORING SERVICES TO PERSONS AFFECTED BY SUCH UNAUTHORIZED BREACH: (1) SETTING UP A CALL CENTER FOR ONE YEAR; (2) MAKING AVAILABLE CREDIT MONITORING SERVICES AS REQUIRED BY LAW FOR ONE YEAR FOR AFFECTED PERSONS; AND (3) PAYING THE COSTS OF MAILING NOTICES OF THE UNAUTHORIZED DISCLOSURE TO AFFECTED PARTIES OF SUCH BREACH. THE TOTAL LIABILITY OF INFOR, ITS AFFILIATES AND THIRD PARTY LICENSORS IN CONNECTION WITH INFOR'S OBLIGATIONS UNDER THIS SECTION 14 (c) SHALL NOT EXCEED TWO AND ONE HALF MILLION DOLLARS (\$2,500,000). THE FOREGOING SETS FORTH INFOR'S EXCLUSIVE OBLIGATION AND LIABILITY WITH RESPECT TO CLAIMS RELATED TO THE UNAUTHORIZED DISCLOSURE OF PERSONAL INFORMATION WITH RESPECT TO SECTION 6 OF THIS AGREEMENT AND IS LICENSEE'S SOLE AND EXCLUSIVE REMEDY FOR SUCH DISCLOSURE OF PERSONAL INFORMATION.**

The foregoing limitations of liability set forth in this section shall not apply with respect to: (i) damages occasioned by fraud; (ii) claims that are the subject of indemnification under Section 7 of this agreement; or (iii) damages to Licensee occasioned by violation of law by Infor.

15. **Audit Rights.**

- (a) Infor (including any third party auditor retained by Infor) may audit the records and systems of Licensee to ensure compliance with the terms of this Agreement and each applicable Order Form. Infor will notify Licensee in writing at least ten (10) business days prior to any such audit. Any such audit will be conducted during regular business hours and will not interfere unreasonably with Licensee's business activities. Infor may audit Licensee no

more than once in any twelve (12) month period. If an audit reveals that Licensee is using the Subscription Software or Subscription Services beyond the scope of the license granted herein (for example, in excess of the License Restriction), then, in addition to any other remedies available to Infor, Licensee will promptly pay Infor the underpaid Subscription Fees associated therewith based on Infor's then-current list rates, as well as any applicable late charges.

- (b) In the event of an Information Security Incident, Licensee and Infor shall work cooperatively to investigate and respond to the incident. Licensee shall have the right to audit Infor for the purpose of determining whether Infor is complying with any and all remedial measures put in place to address the Information Security Incident and future Information Security Incidents.
16. **Compliance with Laws.** Licensee will comply with all laws, rules and regulations applicable to the use of the Subscription Software and the Subscription Services including, without limitation, by not submitting any Licensee Data that is illegal, defamatory, or that infringes any third party proprietary rights. Infor will comply with all applicable laws, rules and regulations applicable to providing the Subscription Software and the Subscription Services hereunder.
17. **Publicity.** Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of Licensee. Under no circumstances whatsoever, shall Infor release any material or information developed or received in the performance of the Services hereunder without the express written permission of Licensee, except where required to do so by law.
18. **Entire Agreement.** This Agreement, including the applicable Order Form, contain the entire understanding of the parties with respect to the subject matter, and supersedes and extinguishes all prior oral and written communications between the parties about its subject matter. Any purchase order or similar document, which may be issued by Licensee in connection with this Agreement, does not modify, supplement or add terms to this Agreement. No modification of this Agreement will be effective unless it is in writing, is signed by each party, and expressly provides that it amends this Agreement. This Agreement and any signed agreement or instrument entered into in connection herewith or contemplated hereby, and any amendments hereto or thereto, to the extent signed and delivered by means of digital imaging, electronic mail or a facsimile machine, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. This Agreement and all applicable Order Forms may be signed in counterparts.

THE PARTIES have executed this Subscription License and Services Agreement through the signatures of their respective authorized representatives.

Effective Date: 10-27-2015

Infor (US), Inc.

Signature: *Lindsay Pritchard*

Printed Name: Lindsay Pritchard

Title: Associate General Counsel

Address: 380 St. Peter Street

Address: St. Paul, MN 55102

Signature Date: October 23, 2015

LICENSEE: Fort Bend County

Signature: *Robert E. Hebert*

Printed Name: Robert E. Hebert

Title: County Judge

Address: 401 Jackson Street

Address: Richmond, Texas 77469

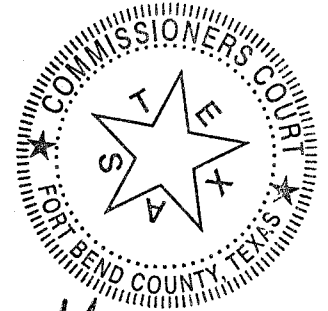
Signature Date: 10-27-2015

ATTEST:

Signature: *Laura Richard*

Printed Name: Laura Richard

Title: County Clerk



APPROVED BY:

Signature: *Ray Webb*

Printed Name: Ray Webb

Title: Director of Information Technology

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 305,933 ~~305,933.02~~ *RE # 305,933* to accomplish and pay the obligation of Fort Bend County under this contract.

Robert Edward Sturdivant

Robert Edward Sturdivant, County Auditor