

MASTER SUBSCRIPTION AND SERVICES AGREEMENT

This Master Subscription and Services Agreement ("**Agreement**") is entered into on the date last signed below to be effective as of **June 18, 2022** ("**Effective Date**"), between Binti, Inc. a Delaware corporation authorized to do business in the State of California with its principal place of business at 1212 Broadway, Suite 200, Oakland, California 94612 ("**Binti**"), and Humboldt County, a political subdivision of the State of California, by and through its Department of Health and Human Services, with an address at 507 F St. Eureka, CA 95501 ("**Licensee**"). Binti and Licensee will be referenced to individually herein as "**Party**" and collectively as the "**Parties**." The prior agreement entered into between the Parties with an effective date 6/18/2017 ("**Prior Agreement**"), is hereby amended in its entirety and restated herein. All provisions of, rights granted and covenants made in the **Prior Agreement** are hereby waived, released and superseded in their entirety and shall have no further force or effect.

Binti has developed a Software-as-a-Service platform, as described at www.binti.com ("**Platform**") as of the date this Agreement was executed. The Approvals Platform allows users to apply online to become approved to foster children and allows social workers to manage their approval workflow online. The Placements Platform allows for the matching of child referrals to approved foster families ("**Authorized Purpose**"). This Agreement governs a relationship whereby Binti will (i) grant Licensee access to the Platform; and (ii) perform the professional services set forth in **Exhibit A** attached hereto ("**Professional Services**," together with the Platform, the "**Services**"). Accordingly, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Proprietary Rights.

(a) Platform. Subject to the terms and conditions of this Agreement, Binti hereby grants to Licensee during the Term (defined below) a non-exclusive, non-transferable and non-sublicensable license to allow its employees and contractors who have been issued valid access credentials from Binti ("**Authorized Users**") to access and use the Platform solely to help facilitate foster care and adoptions for children. Binti will provide access to the Service to Authorized Users subject to Binti's Terms of Service, and in its capacity as a data controller, will process the Authorized Users' personal information in compliance with Binti's Privacy Policy. Binti will provide Licensee with the support services set forth in **Exhibit B** attached hereto.

(b) Restrictions. Licensee will not, and will not permit any third party to: (i) copy, modify, translate, or create derivative works of the Platform; (ii) reverse engineer, decompile, disassemble or otherwise attempt to reconstruct, identify or discover any source code, underlying ideas, underlying user interface techniques, or algorithms of the Platform (except to the extent such prohibition is contrary to applicable law); (iii) lend, lease, offer for sale, sell or otherwise use the Platform for the benefit of any third party except as permitted under Section 1(a); (iv) attempt to disrupt the integrity or performance of the Platform; (v) attempt to gain unauthorized access to the Platform or its related systems or networks; or (vi) use the Platform in a manner that violates this Agreement, any third party rights or any applicable laws, rules or regulations.

(c) Binti Ownership. Except for the rights granted to Licensee in Section 1(a) above and Licensee's rights to Data (defined below), as between the Parties, Binti retains all right, title and interest, including all intellectual property rights, in and to the Platform (including all Updates thereto) and all aggregated and de-identified information that Binti's systems or applications automatically collect regarding the Platform and/or its use and/or performance (including, without limitation, de-identified Data that does not, and cannot reasonably be used to, identify Licensee or any individual) ("**Diagnostic Data**") (which, notwithstanding anything to the contrary, Binti may fully exploit). All rights that Binti does not expressly grant to Licensee in this Section 1 are reserved and Binti does not grant any implied licenses under this Section 1.

(d) Licensee Ownership. As between the Parties, Licensee owns all data, information and other materials submitted to the Platform or Binti by Licensee or Authorized Users (which, for clarity, excludes Diagnostic Data) (collectively, "**Data**"). Licensee represents and warrants that: (i) it either owns the Data or is otherwise permitted to grant the license set forth in this Section; (ii) the posting and use of Data on or through the Platform does not violate the privacy rights, publicity rights, copyrights, contract rights, intellectual property rights, or any other rights of any person; and (iii) the posting of Data on the Platform does not result in a breach of contract between Licensee and any third party. Licensee hereby grants to Binti a non-exclusive and non-transferable (except under Section 10) license to use and host the Data, solely to provide the Services. Binti is not responsible for the content of any Data or the way

Licensee or its Authorized Users choose to use the Platform to store or process any Data. Upon termination or expiration of this Agreement for any reason, Binti will permit Licensee to download all Data from the Platform in .csv format.

2. Use of the Services.

(a) Binti's Obligations. Binti will use commercially reasonable efforts to make the Service available at all times, except for planned downtime and any unavailability caused by Force Majeure Events (defined below). Binti will maintain commercially reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of Licensee's Data. Binti hereby agrees to Licensee's standard terms and conditions attached hereto as Exhibit C, and incorporated by reference as though fully set forth herein.

(b) Licensee's Obligations. Licensee acknowledges and agrees that it is responsible for the use or misuse of the Service by Authorized Users, and a breach by any Authorized User of any term of this Agreement will be deemed a breach by Licensee of this Agreement. Licensee acknowledges and agrees that the Licensee and Licensee's Authorized Users use of the Platform is in compliance with all applicable laws, and Licensee acknowledges that Licensee assumes all risk arising from any such use that is not compliant with applicable laws.

3. Professional Services.

(a) General. Subject to Licensee's compliance with the terms and conditions of this Agreement, Binti will perform the Professional Services in accordance with any specifications set forth in Exhibit A. Each Party will communicate with the point of contact set forth in Exhibit A in connection with the Professional Services. Licensee will reasonably cooperate with Binti to facilitate provision of Professional Services. This cooperation will include, without limitation, (i) performing any tasks reasonably necessary for Binti to provide the Professional Services and to avoid unnecessary delays; (ii) fulfilling any Licensee obligations described in Exhibit A in a timely manner; and (iii) responding to Binti's reasonable requests related to Professional Services in a timely manner. Notwithstanding anything in Exhibit A to the contrary, Binti will not be liable for any delays in performing the Professional Services that arise, in whole or in part, from Licensee's acts or omissions, including, without limitation, its failure to comply with this Section 3(a).

(b) Intellectual Property Rights. Binti solely owns all right, title and interest in and to any software, notes, records, drawings, designs or other copyrightable materials, inventions (whether or not patentable), improvements, developments, discoveries and trade secrets conceived, discovered, authored, invented, developed or reduced to practice by Binti, solely or in collaboration with others, arising out of, or in connection with, Binti performing the Professional Services, including any copyrights, patents, trade secrets, mask work rights or other intellectual property rights relating to the foregoing ("Inventions"). Binti hereby grants to Licensee a non-exclusive, non-transferable, non-sublicensable, royalty-free and worldwide right during the Term to use the portion of the Inventions that is incorporated into any deliverables that Binti provides to Licensee under Exhibit A solely to use any such deliverables. Binti reserves all rights not expressly granted in the prior sentence and does not grant any implied licensed under this Section 3.

4. Fees.

(a) Fees. Licensee will pay Binti a total of One Hundred Forty-Seven Thousand Nine Hundred Fifty Nine Dollars and Sixteen Cents (\$147,959.16) for the licenses and services provided, pursuant to the terms and conditions of this Agreement. In no event shall the maximum amount paid under this Agreement exceed Forty Eight Thousand Eight Hundred Ninety Two Dollars and Thirty Two Cents (\$48,892.32) for fiscal year 2022/2023, Forty Eight Thousand Eight Hundred One Dollars and Forty Cents (\$48,801.40) for fiscal year 2023/2024 and Fifty Thousand Two Hundred Sixty Five Dollars and Forty Four Cents (\$50,265.44) for fiscal year 2024-2025 (with the initial twelve month period including an additional 12 calendar days compensating for June 19, 2022 through June 30, 2022) for Professional Services and access to the Placements Platform set forth in Sections 2(a)-(b) of Exhibit A attached hereto (collectively, "Fees"). All Fees will be due and payable within thirty (30) days from the date of the applicable invoice issued by Binti, once approved. Except as expressly set forth herein, all Fees are non-cancellable and non-refundable. Late Fee payments will accrue interest at the rate of one and one half percent (1.5%) of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

(1) Disputed Fees. Licensee shall have the right to reasonably and in good faith dispute any portion of any amount billed by Binti. If Licensee believes that Binti has billed Licensee incorrectly, Licensee must contact

Binti's customer support department no later than thirty (30) days after the date on the invoice in which the error or problem appeared, in order to receive an adjustment or credit. Such notification shall include written documentation which identifies and substantiates the disputed amount. Notwithstanding the foregoing, Licensee shall submit to Binti, prior to the invoice due date, full payment of the undisputed portion of any fees billed by Binti.

(b) Payment Schedule. In order to align contract Term to the Licensee's fiscal year, the payment schedule below is set. Payment is due thirty (30) days from invoice date once approved.

Term	Product (Annual Subscription Fee)	Amount	Invoice Total	Invoice Date
FY 2022* through FY 2023 (6/19/22-6/30/23) *FY 2022 is Prorated (12 days) to align the Term with County's Fiscal Year. The Prior Agreement term began June 18, 2019.	Binti Licensing Module	\$854.79	\$48,892.32	6/19/2022
	Binti Placements Module	\$657.53		
	Binti Licensing Module	\$26,780.00		
	Binti Placements Module	\$20,600.00		
FY 2024 (7/1/23-6/30/24)	Binti Licensing Module	\$27,583.40	\$48,801.40	6/01/2023
	Binti Placements Module	\$21,218.00		
FY 2025 (7/1/24-6/30/25)	Binti Licensing Module	\$28,410.90	\$50,265.44	6/01/2024
	Binti Placements Module	\$21,854.54		

(c) Fee Increases. Binti in its sole discretion may increase the fees due for any twelve (12) month period during the Term in an amount not to exceed five percent (5%) more than the fees payable during the immediately preceding term of the same length to adjust for inflation; provided, however, that Binti may increase the fees by an amount deemed necessary by Binti in its sole discretion during any Renewal Term in connection with enhancements and/or improvements made to the Platform or Professional Services.

(1) Licensee shall have the right to terminate the Agreement for cause within thirty (30) days of notice of any fee increase if Licensee deems Binti's unilateral increase in fees for any given Renewal Term unreasonable or unfundable.

(d) Taxes. The Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any applicable taxing authorities (collectively, "Taxes"). Licensee is responsible for paying all Taxes, if applicable, associated with its receipt of the Services (except for any Taxes based on Binti's net income).

5. Confidential Information.

(a) Definition of Confidential Information. As used herein, "Confidential Information" means all confidential information disclosed by a Party ("Disclosing Party") to the other Party ("Receiving Party"), that is marked in writing as "confidential" or by a similar designation. For clarity, Confidential Information of Binti also includes the Binti technology underlying the Platform and any related non-public specifications, documentation or technical information that Binti makes available to Licensee. Confidential Information will not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party without restriction prior to its disclosure by the Disclosing Party and without breach of any obligation owed to the Disclosing Party; (iii) is received from a third party without restriction and without breach of any obligation owed to the Disclosing Party; or (iv) was independently developed by the Receiving Party without use of or reference to any Confidential Information of the Disclosing Party.

(b) Protection of Confidential Information. Binti hereby acknowledges that Licensee is subject to the California Public Records Act and Licensee agrees to timely notify Binti of any request for its confidential information per (c), below.

(c) Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

6. Term and Termination.

(a) Term. This Agreement is entered into on the last signed below to be effective as of June 19, 2022 and continue for a period of **thirty-six (36) months and twelve (12) days** ("Initial Term").

(b) Termination. Either Party may terminate this Agreement for any or no reason (in their sole and absolute discretion), upon written notice to the other Party. Either Party may terminate this Agreement upon thirty (30) days' prior written notice if the other Party is in material breach of this Agreement and the breaching Party fails to remedy such material breach within the thirty (30)-day notice period. Upon termination of this Agreement (except for termination by Binti pursuant to the immediately preceding sentence), the Licensee will have access to the Platform for the remainder of the then-current Term. Upon termination or expiration of this Agreement, Binti will supply the Licensee with an export of the Licensee's Data.

7. Effect of Termination. Upon expiration or termination of this Agreement for any reason, all outstanding approved Fees owed pursuant to Section 4 will become immediately due and payable. In the event that this Agreement is terminated by either Party pursuant to the first sentence of Section 6(b) above, Licensee will remain responsible for all Fees as set forth herein for the remainder of the then-current Term. In the event that Licensee terminates this Agreement pursuant to the second sentence of Section 6(b) above, Binti will provide Licensee with a pro-rated refund of any prepaid fees with respect to the terminated period. The provisions of Sections 1(b), 1(c), 1(d), 2(b), 3(b), 4, 5, 6(b), 6(c), 7, 8, 9, 10 and all defined terms used in those Sections will survive any expiration or termination of this Agreement. Representations and Warranties.

(a) Mutual. Each Party represents and warrants that: (i) it has the right, power and authority to enter into this Agreement and to grant the rights and licenses granted hereunder and to perform all of its obligations hereunder; (ii) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary organizational action of the Party; and (iii) when executed and delivered by both Parties, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

(b) Licensee. Licensee further represents and warrants that: (i) it owns or otherwise has sufficient rights to the Data to grant the license set forth in Section 1(d); and (ii) no Data submitted to the Platform does or will violate the privacy, intellectual property or other rights of any person or entity or any applicable laws, rules or regulations.

(c) EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH UNDER THIS SECTION 7, BINTI MAKES NO PROMISES, REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE SERVICES, AND BINTI HEREBY DISCLAIMS THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AS WELL AS ANY LOCAL JURISDICTIONAL ANALOGUES TO THE FOREGOING.

8. Limitations on Liability. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, (I) EXCEPT WITH RESPECT TO SECTION 9, IN NO EVENT WILL EITHER PARTY'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE FEES PAYABLE TO BINTI DURING THE TERM; AND (II) EXCEPT TO THE EXTENT SUCH DAMAGES ARE PAID OR PAYABLE TO UNAFFILIATED THIRD PARTIES PURSUANT TO EITHER PARTY'S OBLIGATIONS PURSUANT TO SECTION 9, IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, FOR LOST PROFITS, DATA OR OTHER BUSINESS OPPORTUNITIES), HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE. THIS SECTION 8 DOES NOT LIMIT EITHER PARTY'S LIABILITY FOR INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

9. Indemnification.

(a) Licensee. If a third party asserts a claim (each, a "**Third Party Claim**") against Binti or any of its affiliates, officers, employees or contractors (each, a "**Binti Released Party**") alleging or arising from (a) that any Data infringes, violates, or misappropriates any intellectual property or proprietary right(s), (b) that any Data, or its provision to Binti, violates any applicable law or regulation, or (c) any negligent act or intentional misconduct by Licensee or any of its Authorized Users in connection with the Service, then Licensee, to the extent allowed by law, may hold such Binti Released Party harmless from and against all damages, settlements, costs, and/or expenses, in each case, that are paid or payable to third party(ies) with respect to the Third Party Claim (including, without limitation, reasonable attorneys' fees).

(b) Binti. IF A THIRD PARTY CLAIM IS ASSERTED AGAINST LICENSEE OR ANY OF ITS AFFILIATES, OFFICERS, EMPLOYEES OR CONTRACTORS (EACH, A "**LICENSEE RELEASED PARTY**") ALLEGING THAT THE PLATFORM (NOT INCLUDING ANY DATA) INFRINGES, VIOLATES, OR MISAPPROPRIATES SUCH THIRD PARTY'S INTELLECTUAL PROPERTY OR PROPRIETARY RIGHT(S) ("**INFRINGEMENT CLAIM**"), THEN BINTI WILL DEFEND THE LICENSEE RELEASED PARTY FROM THE INFRINGEMENT CLAIM AND HOLD SUCH PARTY HARMLESS FROM AND AGAINST ALL DAMAGES, SETTLEMENTS, COSTS, AND/OR EXPENSES, IN EACH CASE, THAT ARE PAID OR PAYABLE WITH RESPECT TO THE INFRINGEMENT CLAIM (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES). In the event of an Infringement Claim, Binti, at its sole option and expense, may: (i) procure for Licensee the right to continue using the Platform or infringing part thereof; (ii) modify the Platform or infringing part thereof; (iii) replace the Platform or infringing part thereof with other software having substantially the same or better capabilities; or, (iv) if the foregoing are not commercially practicable, terminate this Agreement and repay to Licensee a pro-rata portion of the Fees. Notwithstanding the forgoing sentences of this Section 9(b), Binti will have no liability for an Infringement Claim if the actual or alleged infringement results from (a) any breach of this Agreement by Licensee or any Authorized Users; (b) any modification, alteration or addition made to the Platform by Licensee or any Authorized Users, including any combination of the Platform with software not provided by Binti; (c) any failure by Licensee or any Authorized Users to use any Updates made available by Binti; or (d) any settlements entered into by Licensee or costs incurred by Licensee for the Infringement Claim that are not pre-approved by Binti in writing.

(c) Procedures. Each Party's obligations pursuant to Sections 9(a) and 9(b) above (respectively) are expressly conditioned on: (a) the Party seeking indemnification under this Section 9 ("**Indemnified Party**") providing the other Party ("**Indemnifying Party**") with prompt written notice of the applicable Third Party Claim for which the Indemnified Party seeks indemnification; (b) the Indemnified Party reasonably cooperating in the defense and/or settlement of such Third Party Claim, at the Indemnifying Party's sole expense; and (c) the Indemnifying Party having sole control over the defense and/or settlement of such Third Party Claim. The Indemnifying Party may not agree to any settlement of any Third Party Claim against the Indemnified Party that admits wrongdoing by the Indemnified Party, or otherwise imposes any material obligation on the Indemnifying Party (not entirely covered by an indemnification obligation hereunder), without the Indemnified Party's prior express written consent, which consent will not be unreasonably withheld, conditioned or delayed. The Indemnified Party may participate in the defense of a Third Party Claim, if applicable, through counsel of its own choice at its own expense.

10. Miscellaneous. Each Party agrees that any violation or threatened violation of this Agreement may cause irreparable injury to the other Party, entitling such Party to seek injunctive relief in addition to all available remedies. Neither Party may assign this Agreement or any rights under it, in whole or in part, without the other Party's prior written consent; provided that either Party may assign this Agreement or any rights under it without prior written consent to a successor in connection with a merger, acquisition, reorganization, consolidation, or sale of all or substantially all of its assets or the business to which this Agreement relates. Any attempt to assign this Agreement other than as permitted above will be void. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, then the remaining provisions of this Agreement will remain in full force and effect. This Agreement will be governed by and construed under the laws of California without reference to its conflict of laws principles. This Agreement, including all Exhibits attached hereto, embodies the entire agreement between the Parties with respect to the subject matter set forth herein and supersedes any previous or contemporaneous communications, whether oral or written, express or implied. This Agreement may be modified or amended only by a writing signed by both Parties. If there is any conflict or inconsistency between the terms of any Exhibit and the terms in the body of this Agreement, then the terms in the body of this Agreement will control solely to the extent of the conflict. All waivers made under this Agreement must be made in writing by the Party

making the waiver. Any notice required or permitted to be given under this Agreement will be effective if it is (i) in writing and sent by certified or registered mail, or insured courier, return receipt requested, to the appropriate Party at the address set forth in Exhibit A, Section 1 and with the appropriate postage affixed; or (ii) sent via email to, in the case of Binti: partnerships@binti.com; and, in the case of Licensee: vchasedunn@co.humboldt.ca.us. Either Party may change its address for receipt of notice by notice to the other Party in accordance with this Section. Notices are deemed given two (2) business days following the date of mailing, one (1) business day following delivery to a courier, and/or on the same day a facsimile or electronic mail is sent to the recipient. Binti will not be liable or responsible to Licensee, nor be deemed to have breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Binti including, without limitation, acts of God, natural disaster, denial or services attacks and/or service provider system outages (collectively, "**Force Majeure Events**"). This Agreement may be signed in counterparts, each of which will be deemed an original, and all of which together will constitute a single agreement.

TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
- (2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR TREASURER

BINTI, INC.:

By: *Felicia Curcuru*

By: *Jamie Gray*

Name: Felicia Curcuru

Name: Jamie Gray

Title: CEO

Title: Assistant Secretary

Date: 04 / 26 / 2023

Date: 04 / 26 / 2023

COUNTY OF HUMBOLDT:

By: *Steve Madrone*
Steve Madrone, Chair
Humboldt County Board of Supervisors

Date: 5/23/23

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By: *Krista Freeman*

Date: 5/2/23

Risk Management

LIST OF EXHIBITS:

Exhibit A – Professional Services

Exhibit B – Support

Exhibit C – Master Subscription and Services Agreement By and Between County of Humboldt (Licensee) and Binti Inc. (Binti) for Fiscal Years 2022-23 Through 2024-25

EXHIBIT A
PROFESSIONAL SERVICES

All capitalized terms that are used but not defined in this Exhibit will have the meanings ascribed to them in the body of the Agreement above.

1. Contact. The principal contacts in connection with the Professional Services are as follows:

Binti:	Licensee:
Name: Veronica Davis	Name: Ivy Breen
Title: Head of Project Management	Title: Deputy Director, Child Welfare Services
Address: 1212 Broadway, Suite 200, Oakland, California 94612	Address: 2440 6th Street, Eureka, California 95501
Phone: 844-424-6844	Phone: 707-476-4700
Email: pmo@binti.com	Email: ibreen@co.humboldt.ca.us

2. Services. Binti will use commercially reasonable efforts to provide the following Professional Services:

(a) Data Migration. Migrate Data into the Platform based on reasonably written instructions from Licensee within 12 weeks of receiving data with documentation from Licensee.

(b) Form Customizations. Customize up to 60 documents provided to Binti by Licensee for inclusion within the Platform within 12 weeks of Licensee providing the documents.

3. Restrictions. Binti shall not drive an automobile in the performance of the services provided pursuant to the terms and conditions of this Agreement. If Binti's responsibilities are changed in such a way that driving will be required during the performance of the services required hereunder, Binti shall take out and maintain Automobile/Motor Liability Insurance with a limit of liability not less than One Million Dollars (\$1,000,000.00) combined single limit coverage prior to the commencement of any such driving. Such insurance shall include coverage of all owned, hired and non-owned vehicles, and be at least as broad as Insurance Service Offices Form Code 1 (any auto).

Any additional Professional Services to be performed by Binti will be mutually agreed upon by the Parties in writing and attached to this Exhibit A as successively numbered Schedule "A"s (e.g., Schedule A-1, Schedule A-2, etc.).

This Exhibit A is accepted and agreed upon as of the Effective Date set forth in the body of the Agreement.

EXHIBIT B

SUPPORT

All capitalized terms that are used but not defined in this Exhibit will have the meanings ascribed to them in the body of the Agreement above.

1. **Support.** Binti will provide technical support to Licensee from 9 AM-10 PM Eastern Time, Monday through Friday during the Term except for national holidays in the United States ("**Support**"). To request Support, Licensee must contact Binti at 844-424-6844 or via email at help@binti.com. Support will return/answer all messages received outside of the aforementioned hours during the following business day.

Provision of Support. Binti will provide Support to the following Licensee contact: **Julie Perata, 707-388-6592, jperata@co.humboldt.ca.us**. Binti will not be responsible for addressing or resolving Events (defined below) that Binti reasonably determines are caused by Licensee's systems or any misuse of the Platform.

(a) **Events.** "**Events**" are occurrences that impact the availability of the Platform, except for scheduled downtime, as determined by Binti in its reasonable discretion. Binti distinguishes among four classes of Events as follows:

- 1) **Critical Event (Class 1):** A complete loss of the Platform's functionality such that no user can use the Platform.
- 2) **High Event (Class 2):** The Platform's functionality is materially impaired such that at least approximately 10% of users cannot use the Platform for its intended purpose. Users have major impact and minimal functionality is available.
- 3) **Medium Event (Class 3):** An event not meeting the criteria of Critical or High, has a workaround available, which does not negatively impact the User from using the Platform for its intended purpose. Such errors will be consistent and reproducible. Users would lose some level of functionality but are still able to utilize the system.
- 4) **Low Event (Class 3):** Any other problems or issues, without limitation, any general questions about the Platform or problems that do not rise to Critical, High, or Medium events. Most users would not notice or be impacted if not addressed.

Target Resolution Times. Binti will use commercially reasonable efforts to meet the following target time frames for resolution of Events from the time Binti receives a Support request:

<u>Event Level</u>	<u>Target Resolution Time</u>
Critical	4 hours or better
High	24 hours or better
Medium	Binti will provide a response time of 5 business days; resolution will be determined based on an agreed action/remediation plan between the Parties in writing
Low	

(b) **Scheduled Maintenance Downtime.** Binti will schedule maintenance between the hours of 10PM and 4AM Pacific Standard time. Binti will provide Licensee with reasonable advance written notice of scheduled downtime. Binti may access the Platform during the scheduled maintenance downtimes for maintenance purposes and to implement Updates, bug fixes and/or any other changes that Binti deems necessary or advisable.

(c) **Resolution.** If Binti has not resolved an Event within the targeted time frame, then, upon Licensee's written request, Binti and Licensee will discuss a resolution plan. From that point forward until the issue is resolved, Binti will notify Licensee's designated contact of the status of resolution at least once daily.

2. **Training.** The Parties may agree in writing upon commercially reasonable training that Binti will provide to Licensee Authorized Users during the Term. This may include, by way of example only, a web-based tutorial about how to use the Platform. Training will not exceed a total of 25 hours during the Term.

EXHIBIT C
MASTER SUBSCRIPTION AND SERVICES AGREEMENT
BY AND BETWEEN
COUNTY OF HUMBOLDT (LICENSEE)
AND
BINTI INC. (BINTI)
FOR FISCAL YEARS 2022 – 2023 THROUGH 2024-2025

1. TAX EXEMPT STATUS

The COUNTY OF HUMBOLDT (LICENSEE) is a political subdivision of the State of California. As such, the LICENSEE is tax exempt under Internal Revenue Code section 115.

2. REPORTS:

BINTI agrees to provide LICENSEE with any and all reports that may be required by any local, state and/or federal agencies for compliance with this Agreement, unless such reports contain material considered to be trade secrets under applicable law, in which case any such trade secret information shall be withheld. Any and all reports required hereunder shall be submitted in accordance with any and all applicable timeframes using the format required by the state of California as appropriate.

3. RECORD RETENTION AND INSPECTION:

- A. Maintenance and Preservation of Records. BINTI agrees to timely prepare accurate and complete financial, performance and payroll records, documents and other evidence relating to the services provided pursuant to the terms and conditions of this Agreement, and to maintain and preserve said records for at least three (3) years from the date of final payment under this Agreement, except that if any litigation, claim, negotiation, audit or other action is pending, the records shall be retained until completion and resolution of all issues arising therefrom. Such records shall be original entry books with a general ledger itemizing all debits and credits for the services provided pursuant to the terms and conditions of this Agreement.
- B. Inspection of Records. Pursuant to California Government Code Section 8546.7, all records, documents, conditions and activities of BINTI, and its subcontractors, related to the services provided pursuant to the terms and conditions of this Agreement, shall be subject to the examination and audit of the California State Auditor and any other duly authorized agents of the State of California for a period of three (3) years after the date of final payment under this Agreement. BINTI hereby agrees to make all such records available during normal business hours to inspection, audit and reproduction by LICENSEE and any duly authorized local, state and/or federal agencies. BINTI further agrees to allow interviews of any of its employees who might reasonably have information related to such records by LICENSEE and any duly authorized local, state and/or federal agencies. LICENSEE shall provide Binti timely notice as soon as reasonably possible of any requested inspection of records submitted by an authorized agency; and in no case less than fourteen (14) days prior to the scheduled day of any such inspection. All examinations and audits conducted hereunder shall be strictly confined to those matters connected with the performance of this Agreement, including, without limitation, the costs of administering this Agreement.
- C. Audit Costs. In the event of an audit exception or exceptions related to the services provided pursuant to the terms and conditions of this Agreement, the party responsible for not meeting the requirements set forth herein shall be responsible for the deficiency and for the cost of the audit. If the allowable expenditures cannot be determined because BINTI's documentation is nonexistent or inadequate, according to generally accepted accounting practices, the questionable cost shall be disallowed by LICENSEE.

4. CONFIDENTIAL INFORMATION:

- A. Disclosure of Confidential Information. In the performance of this Agreement, BINTI may receive information that is confidential under local, state or federal law. BINTI hereby agrees to protect all confidential information in conformance with any and all applicable local, state and federal laws, regulations, policies, procedures and standards, including, without limitation: Division 19 of the California Department of Social Services Manual of

Policies and Procedures – Confidentiality of Information; California Welfare and Institutions Code Sections 827, 5328, 10850 and 14100.2; California Health and Safety Code Sections 1280.15 and 1280.18; the California Information Practices Act of 1977; the California Confidentiality of Medical Information Act (“CMIA”); the United States Health Information Technology for Economic and Clinical Health Act (“HITECH Act”); the United States Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and any current and future implementing regulations promulgated thereunder, including, without limitation, the Federal Privacy Regulations contained in Title 45 of the Code of Federal Regulations (“C.F.R.”) Parts 160 and 164, the Federal Security Standards contained in 45 C.F.R. Parts 160, 162 and 164 and the Federal Standards for Electronic Transactions contained in 45 C.F.R. Parts 160 and 162, all as may be amended from time to time.

- B. Continuing Compliance with Confidentiality Requirements. Each party hereby acknowledges that local, state and federal laws, regulations and standards pertaining to confidentiality, electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. Each party agrees to enter into negotiations concerning an amendment to this Agreement embodying written assurances consistent with the requirements of HIPAA, the HITECH Act, the CMIA and any other applicable local, state and federal laws, regulations or standards.

5. NON-DISCRIMINATION COMPLIANCE:

- A. Nondiscriminatory Delivery of Social Services. In connection with the execution of this Agreement, BINTI, and its subcontractors, shall not unlawfully discriminate in the administration of public assistance and social services programs. BINTI hereby assures that no person shall be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving local, state or federal financial assistance because of race, religion or religious creed, color, age (over forty (40) years of age), sex, including, without limitation, gender identity and expression, pregnancy, childbirth and related medical conditions; sexual orientation, including, without limitation, heterosexuality, homosexuality and bisexuality, national origin, ancestry, marital status, medical condition, including, without limitation, cancer and genetic characteristics, mental or physical disability, including, without limitation, HIV status and AIDS; political affiliation; military service; denial of family care leave; or any other classifications protected by any and all applicable local, state or federal laws, regulations or standards, all as may be amended from time to time. LICENSEE reserves the right to monitor the services provided hereunder in order to ensure compliance with the requirements of this provision.
- B. Professional Services and Employment. In connection with the execution of this Agreement, BINTI, and its subcontractors, shall not unlawfully discriminate in the provision of professional services or against any employee or applicant for employment because of: race; religion or religious creed; color; age; over forty (40) years of age; sex, including, without limitation, gender identity and expression, pregnancy, childbirth and related medical conditions; sexual orientation, including, without limitation, heterosexuality, homosexuality and bisexuality; national origin; ancestry; marital status; medical condition, including, without limitation, cancer and genetic characteristics; mental or physical disability, including, without limitation, HIV status and AIDS; political affiliation; military service; denial of family care leave; or any other classifications protected by any and all applicable local, state or federal laws, regulations or standards, all as may be amended from time to time. Nothing herein shall be construed to require the employment of unqualified persons.
- C. Compliance with Anti-Discrimination Laws. BINTI further assures that it, and its subcontractors, will abide by the applicable provisions of: Title VI and Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Food Stamp Act of 1977; Title II of the Americans with Disabilities Act of 1990; the California Fair Employment and Housing Act; California Civil Code Sections 51, *et seq.*; California Government Code Sections 4450, *et seq.*; California Welfare and Institutions Code Section 10000; Division 21 of the California Department of Social Services Manual of Policies and Procedures; United States Executive Order 11246, as amended and supplemented by United States Order 11375 and 41 C.F.R. Part 60; and any other applicable local, state or federal laws, regulations or standards, all as may be amended from time to time. The applicable regulations of the California Fair Employment and Housing Commission implementing California Government Code Section 12990, set forth in Sections 8101, *et seq.* of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

6. NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:

By executing this Agreement, BINTI certifies that it is not a Nuclear Weapons Contractor, in that BINTI is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. BINTI agrees to notify LICENSEE immediately if it becomes a Nuclear Weapons Contractor as defined above. LICENSEE may

immediately terminate this Agreement if it determines that the foregoing certification is false or if BINTI subsequently becomes a Nuclear Weapons Contractor.

7. DRUG-FREE WORKPLACE CERTIFICATION:

By executing this Agreement, BINTI certifies that it will provide a drug-free workplace in accordance with the requirements of the Drug-Free Workplace Act of 1990 (California Government Code Sections 8350, *et seq.*), by doing all of the following:

- A. Drug-Free Policy Statement. Publish, as required by California Government Code Section 8355(a)(1), a Drug-Free Policy Statement which notifies employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited, and specifies the actions to be taken against employees for violations.
- B. Drug-Free Awareness Program. Establish, as required by California Government Code Section 8355(a)(2), a Drug-Free Awareness Program which informs employees about the following:
1. The dangers of drug abuse in the workplace;
 2. BINTI's policy of maintaining a drug-free workplace;
 3. Any available counseling, rehabilitation and employee assistance programs; and
 4. Penalties that may be imposed upon employees for drug abuse violations.
- C. Drug-Free Employment Agreement. Ensure, as required by California Government Code Section 8355(a)(3), that every employee who provides services pursuant to the terms and conditions of this Agreement will:
1. Receive a copy of BINTI's Drug-Free Policy Statement; and
 2. Agree to abide by BINTI's Drug-Free Policy as a condition of employment.
- D. Effect of Noncompliance. Failure to comply with the requirements set forth herein may result in termination of this Agreement and/or ineligibility for award of future contracts.

8. INSURANCE REQUIREMENTS:

This Agreement shall not be executed by LICENSEE, and BINTI is not entitled to any rights hereunder, unless certificates of insurance, or other proof that the following provisions have been complied with, are filed with the Clerk of the Humboldt County Board of Supervisors.

- A. General Insurance Requirements. Without limiting BINTI's indemnification obligations set forth herein, BINTI, and its subcontractors hereunder, shall take out and maintain, throughout the entire term of this Agreement, and any extensions thereof, the following policies of insurance, placed with insurers authorized to do business in the State of California with a current A.M. Best's rating of no less than A: VII or its equivalent against personal injury, death and property damage which may arise from, or in connection with, the activities of BINTI or its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors:
1. Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence form CG 0001), in an amount of Two Million Dollars (\$2,000,000.00) per occurrence for any one (1) incident, including, without limitation, personal injury, death and property damage. If a general aggregate limit is used, such limit shall apply separately hereto or shall be twice the required occurrence limit.
 2. BINTI will not drive an automobile in the performance of the services provided pursuant to the terms and conditions of this Agreement. If BINTI's responsibilities are changed in such a way that driving will be required during the performance of the services set forth herein, BINTI shall take out and maintain Automobile/Motor Liability Insurance with a limit of liability not less than One Million Dollars (\$1,000,000.00) combined single limit coverage. Such insurance shall include coverage of all owned, hired and non-owned vehicles, and be at least as broad as Insurance Service Offices Form Code 1 (any auto).
 3. Workers' Compensation Insurance, as required by the California Labor Code, with statutory limits, and

Employers Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. Said policy shall contain, or be endorsed to contain, a waiver of subrogation against LICENSEE and its agents, officers, officials, employees and volunteers.

4. Professional Liability Insurance – Error and Omission Coverage including coverage in an amount no less than Two Million Dollars (\$2,000,000.00) for each occurrence (Four Million Dollars (\$4,000,000.00) general aggregate). Said insurance shall be maintained for the statutory period during which BINTI may be exposed to liability regarding the services provided pursuant to the terms and conditions of this Agreement. BINTI shall require that such coverage be incorporated into its professional services agreements with any other entities.

B. Special Insurance Requirements. Said policies shall, unless otherwise specified herein, be endorsed with the following provisions:

1. The Comprehensive or Commercial General Liability Policy shall provide that LICENSEE, and its agents, officers, officials, employees and volunteers, are covered as additional insured for liability arising out of the operations performed by, or on behalf of, BINTI. The coverage shall contain no special limitations on the scope of protection afforded to LICENSEE or its agents, officers, officials, employees and volunteers. Said policy shall also contain a provision stating that such coverage:
 - a. Includes contractual liability.
 - b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to as “XCU Hazards.”
 - c. Is the primary insurance with regard to LICENSEE.
 - d. Contains a cross liability, severability of interest or separation of insureds clause.
2. Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.
2. The above-referenced policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to LICENSEE in accordance with the notice provisions set forth herein. It is further understood that BINTI shall not terminate such coverage until LICENSEE receives adequate proof that equal or better insurance has been secured.
3. The inclusion of more than one (1) insured shall not operate to impair the rights of one (1) insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one (1) insured shall not operate to increase the limits of the insurer’s liability.
4. For claims related to this Agreement, BINTI’s insurance is the primary coverage to LICENSEE, and any insurance or self-insurance programs maintained thereby are excess to LICENSEE’s insurance and will not be used to contribute therewith.
5. Any failure to comply with the terms and conditions of this Agreement shall not affect the coverage provided to LICENSEE or its agents, officers, officials, employees and volunteers.
6. BINTI shall furnish LICENSEE with certificates and original endorsements effecting the required coverage prior to execution of this Agreement. The endorsements shall be on forms approved by the Humboldt County Risk Manager. Any deductible or self-insured retention over One Hundred Thousand Dollars (\$100,000.00) shall be disclosed to, and approved by, LICENSEE. If BINTI does not keep all required policies in full force and effect, LICENSEE may, in addition to other available remedies, take out the

necessary insurance and deduct the cost of said insurance from the monies owed to LICENSEE under this Agreement.

7. LICENSEE is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered, and BINTI shall be required to purchase additional coverage to meet the above-referenced aggregate limits.
- C. Insurance Notices. Any and all insurance notices required to be given pursuant to the terms of this Agreement shall be sent to the addresses set forth below in accordance with the notice requirements described herein.

LICENSEE : County of Humboldt
Attn: Risk Management
825 Fifth Street, Room 131
Eureka, California 95501

BINTI : Binti, Inc.
Attention: Felicia Curcuru
1212 Broadway, Suite 200
Oakland, California 94612

9. RELATIONSHIP OF PARTIES:

It is understood that this Agreement is by and between two (2) independent entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or any other similar collaborative association or legal entity. Both parties further agree that BINTI shall not be entitled to any benefits to which LICENSEE's employees are entitled, including, without limitation, overtime, retirement, leave or workers' compensation benefits. BINTI shall be solely responsible for the acts or omissions of its agents, officers, employees, assignees and subcontractors. At no time shall BINTI's employees and representatives hold themselves out to be LICENSEE's employees or representatives.

10. COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS AND STANDARDS:

- A. General Legal Requirements. BINTI agrees to comply with any and all local, state and federal laws, regulations, policies, procedures and standards applicable to the services provided pursuant to the terms and conditions of this Agreement.
- B. Licensure Requirements. BINTI agrees to comply with any and all local, state and federal licensure, certification and accreditation standards applicable to the services provided pursuant to the terms and conditions of this Agreement.
- C. Accessibility Requirements. BINTI agrees to comply with any and all applicable accessibility requirements set forth in the Americans with Disabilities Act, Section 508 of the Rehabilitation Act of 1973, as amended, California Government Code Section 1135 and any current and future implementing regulations, policies, procedures and standards promulgated thereunder, including, without limitation, the federal accessibility standards set forth in 36 C.F.R. Section 1194.1, all as may be amended from time to time.
- D. Conflict of Interest Requirements. BINTI agrees to comply with any and all applicable conflict of interest requirements set forth in the California Political Reform Act and any current and future implementing regulations, policies, procedures and standards promulgated thereunder, including, without limitation, LICENSEE's Conflict of Interest Code, all as may be amended from time to time.

11. PROVISIONS REQUIRED BY LAW:

This Agreement is subject to any additional local, state and federal restrictions, limitations, or conditions that may affect the terms, conditions or funding of this Agreement. This Agreement shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or incorrectly stated, the parties agree to amend the pertinent section to make such insertion or correction.

12. REFERENCE TO LAWS, REGULATIONS AND STANDARDS:

In the event any law, regulation, or standard referred to herein is amended during the term of this Agreement, the parties agree to comply with the amended provision as of the effective date thereof.

13. PROTOCOLS:

Both parties agree that the inclusion of additional protocols may be required to make this Agreement specific. All such protocols shall be negotiated, determined and agreed upon by both parties hereto.

14. AGREEMENT SHALL BIND SUCCESSORS:

All provisions of this Agreement shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, administrators, successors and permitted assigns.

15. WAIVER OF DEFAULT:

The waiver by either party of any breach of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement. In no event shall any payment by LICENSEE constitute a waiver of any breach of this Agreement which may then exist on the part of BINTI. Nor shall such payment impair or prejudice any remedy available to LICENSEE with respect to any breach or default. LICENSEE shall have the right to demand repayment of, and BINTI shall promptly refund, any funds which LICENSEE determines were not expended in accordance with the terms of this Agreement.

16. NON-LIABILITY OF COUNTY OFFICIALS AND EMPLOYEES:

No official or employee of LICENSEE shall be personally liable for any default or liability under this Agreement.

17. STANDARD OF PRACTICE:

BINTI warrants that it has the degree of learning and skill ordinarily possessed by reputable professionals practicing in similar localities in the same profession and under similar circumstances. BINTI's duty is to exercise such care, skill and diligence as professionals engaged in the same profession ordinarily exercise under like circumstances.

18. JURISDICTION AND VENUE:

This Agreement shall be construed under the laws of the State of California. Any dispute arising hereunder, or relating hereto, shall be litigated in and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

19. ADVERTISING AND MEDIA RELEASE:

Any and all informational material related to this Agreement shall receive approval from LICENSEE prior to being used as advertising or released to the media, including, without limitation, television, radio, newspapers and internet. BINTI shall inform LICENSEE of any and all requests for interviews by the media related to this Agreement before such interviews take place; and LICENSEE shall be entitled to have a representative present at such interviews. Any and all notices required by this provision shall be given to the Director in accordance with the notice requirements set forth herein.

20. SUBCONTRACTS:

BINTI shall obtain prior written approval from LICENSEE before subcontracting any of the services to be provided pursuant to the terms and conditions of this Agreement. Any and all subcontracts will be subject to all applicable terms and conditions of this Agreement, including, without limitation, the licensing, certification, privacy, security and confidentiality requirements set forth herein. BINTI shall remain legally responsible for the performance of all terms and conditions of this Agreement, including, without limitation, any and all services provided by third parties under subcontracts, whether approved by LICENSEE or not.

21. ATTORNEYS' FEES:

If either party shall commence any legal action, including, without limitation, an action for declaratory relief, against the other by reason of the alleged failure of the other to perform any of its obligations hereunder, the party prevailing in said action shall be entitled to recover court costs and reasonable attorneys' fees, including, but not limited to, the reasonable value of services rendered by the Humboldt County Counsel's Office, to be fixed by the court, and such recovery shall include court costs and attorneys' fees on appeal, if applicable. As used herein, the term "prevailing party" means the party who dismisses an action in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached, or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

22. SURVIVAL OF PROVISIONS:

The duties and obligations of the parties set forth in Section 3 – Record Retention and Inspection, Section 4 – Confidential Information and Section 8 – Indemnification shall survive the expiration or termination of this Agreement.

23. CONFLICTING TERMS OR CONDITIONS:

In the event of any conflict in the terms or conditions set forth in any other agreements in place between the Parties hereto and the terms and conditions set forth in the Master Subscription and Services Agreement, the terms and conditions set forth in this Exhibit C shall have priority notwithstanding any language to the contrary contained in Item 10 "Miscellaneous" of the Master Subscription and Services Agreement.

24. INDEPENDENT CONSTRUCTION:

The titles of the sections and subsections set forth herein are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

25. FORCE MAJEURE:

Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control, and without the fault or negligence, of such party. Such events shall include, without limitation, acts of God, third-party labor strikes or lockouts, riots, acts of war, epidemics, pandemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.

26. COUNTERPARTS:

This Agreement, and any amendments hereto, may be executed in one (1) or more counterparts, each which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one (1) and the same agreement. This Agreement, and any amendments hereto, may be signed by manual or electronic signatures in accordance with any and all applicable local, state and federal laws, regulations and standards, and such signatures shall constitute original signatures for all purposes. A signed copy of this Agreement, and any amendments hereto, transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement and any amendments hereto.

27. AUTHORITY TO EXECUTE:

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized.

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