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PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is entered into as of the 31st day of May, 2023 ("Effective Date") by and between Advanced Computer Technologies, LLC, with offices at 4450 Belden Village Street, Suite 305, Canton, Ohio 44718 ("ACT") and the County of Webb, a political subdivision of the State of Texas for and on behalf of Webb County Veterans Treatment Program with offices at 4101 Juarez St. Laredo, TX 78040 ("CUSTOMER"), and describes the terms and conditions pursuant to which ACT shall provide professional services to CUSTOMER.

1. SCOPE OF SERVICES

ACT will perform the professional services ("Services") and deliver the deliverables ("Deliverables") as described in the Scope of Services attached hereto as Exhibit A.

2. PLACE OF PERFORMANCE

Unless otherwise provided in this Agreement, ACT may perform the Services in whole or in part at ACT's place of business, CUSTOMER's place of business, and/or such other locations as ACT selects.

3. TERM

This Agreement shall be effective as of May 31, 2023 and shall continue in full force and effect for either twelve (12) months, until services have been delivered, or the Agreement has been terminated in accordance with this Agreement, whichever first occurs.

4. PRICE AND PAYMENT TERMS

- a. CUSTOMER will pay ACT on a "firm fixed price" basis for labor expended and costs and expenses incurred, as described in Exhibit A.
- b. Professional Services quoted are at a firm fixed price, but the extent of services are limited, as specified in the Exhibits. For those items that are limited, actual effort, costs and expenses may be less than or greater than those estimated. CUSTOMER shall have no obligation to pay ACT more than the estimated price. ACT shall have no obligation to provide labor or incur costs or expenses having a combined value more than the quoted price, even if the services have not been completed or the deliverables delivered, or the results expected by the customer have not been achieved. The parties may by mutual, written agreement, increase the quoted price. Changes in scope will require a change order to increase the firm fixed price based upon the additional level of effort required.
- c. In addition to paying for labor expended, CUSTOMER shall reimburse ACT for the cost of all reasonable travel expenses and miscellaneous out-of-pocket expenses incurred in performing the Services.
- d. CUSTOMER shall make payment to ACT according to the schedule and provisions of Exhibit A. ACT shall have a lien upon and may retain or repossess any and all Deliverables if CUSTOMER does not make full payment to ACT.



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- e. Invoiced amounts are due and payable within 30 days from the date of the invoice.
- f. If CUSTOMER's action or inaction results in non-receipt of payment by ACT for the total amount of an invoice within fifteen (15) days of the due date of such invoice, interest compounded at the rate of one and one half percent (1.5%) per month, or the maximum rate permitted by law if lower, shall thereafter be added to all amounts unpaid and outstanding. If CUSTOMER's action or inaction results in non-receipt of payment by ACT, ACT shall have the right exercisable in ACT's sole discretion, in addition to its other rights and remedies, to cease further performance of the Services hereunder.

5. **RESOURCES TO BE PROVIDED BY CUSTOMER**

- a. CUSTOMER will designate qualified CUSTOMER personnel or representatives to consult with ACT on a regular basis in connection with the Services. CUSTOMER will furnish such documentation and other information as is reasonably necessary to perform the Services.
- b. CUSTOMER shall furnish access to CUSTOMER's premises, and appropriate workspace for any ACT personnel working at CUSTOMER's premises, as necessary for performance of those portions of the Services to be performed at CUSTOMER's premises.
- c. CUSTOMER shall provide, maintain, and make available to ACT, at CUSTOMER's expense and in a timely manner, the resources delineated above, and such other additional resources as ACT may from time to time reasonably request in connection with ACT's performance of the Services. Delays in the provision of these resources may result in delays in the performance of the Services, or an increase in the Price.

6. **CONFIDENTIALITY**

Concurrently with the execution of this Agreement, the parties shall execute a Non-Disclosure Agreement ("NDA") in the form and content of Exhibit B attached hereto and incorporated by reference. The NDA is independent of this Agreement and shall survive the termination of this Agreement. Nothing in this Agreement or in any such NDA shall be deemed to restrict or prohibit ACT from providing to others services and deliverables the same as or similar to the Services and Deliverables as described in the Agreement.

7. **INTELLECTUAL PROPERTY**

- a. As used herein, "Intellectual Property" shall mean inventions (whether or not patentable), works of authorship, trade secrets, techniques, know-how, ideas, concepts, algorithms, and other intellectual property incorporated into any Deliverable whether or not first created or developed by ACT in providing the Services.
- b. CUSTOMER and ACT shall each retain ownership of, and all right, title, and interest in and to, their respective pre-existing Intellectual Property. No license therein, whether express or implied, is granted by this Agreement or as a result of the Services performed hereunder. To the extent the parties wish to grant to the other rights or interests in pre-existing Intellectual Property, separate license agreements on mutually acceptable terms will be executed.



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- c. ACT grants to CUSTOMER a royalty-free, paid up, worldwide, perpetual, non-exclusive, non-transferable license to use any ACT Intellectual Property incorporated into any Deliverable, solely for CUSTOMER's use of that Deliverable for its internal business purposes. ACT shall retain ownership of and unrestricted right to use any Intellectual Property derived in any fashion or manner hereunder, including from its pre-existing Intellectual Property. The Services performed and any Deliverables produced pursuant to this Agreement are not "works for hire."

8. **TAXES**

- a. In no event whatsoever shall ACT be liable for sales, use, business, gross receipts or any other tax that may be levied by any State or Federal Government entity against a contractor to such governmental entity other than taxes upon income earned by ACT for the goods and/or services provided pursuant this Agreement. This exclusion of tax liability is also applicable to any goods and/or services that may be provided by ACT under any later amendment hereto regardless of changes in legislation or policy.
- b. In the event a taxing authority conducts an audit of this Agreement and determines that an additional tax should have been imposed on the Services or Deliverables provided by ACT to CUSTOMER (other than those taxes levied on ACT's income), CUSTOMER shall reimburse ACT for any such additional tax, including interest and penalties thereon. Similarly, if a taxing authority determines that a refund of tax is due as it relates to the Services or Deliverables provided by ACT to CUSTOMER (except those taxes relating to ACT's income), ACT shall reimburse CUSTOMER such refund, including any interest paid thereon by the taxing authority.

9. **TERMINATION FOR DEFAULT**

- a. Either party may terminate this Agreement if (i) the other party fails to perform a material obligation of the Agreement and such failure remains uncured for a period of 30 days after receipt of notice from the non-breaching party specifying such failure, or (ii) a party ceases to conduct business, becomes or is declared insolvent or bankrupt, is the subject of any proceeding relating to its liquidation or insolvency which is not dismissed within 90 days or makes an assignment for the benefit of creditors. In addition, ACT may terminate this Agreement effective immediately upon written notice to CUSTOMER if CUSTOMER fails to make any payment in full as and when due hereunder.
- b. Upon termination for whatever reason and regardless of the nature of the default (if any), CUSTOMER agrees to pay ACT in full for all goods and/or services provided to, and accepted by, CUSTOMER under this Agreement and/or any task order hereto as of the effective date of the Agreement within 30 days of the invoice date.

10. **INDEMNIFICATION**

ACT agrees to defend, indemnify, and hold harmless CUSTOMER from and against third party claims, judgments, and awards, as well as the reasonable costs related thereto (hereinafter collectively referred to as "Damages") to the extent such Damages result from the gross negligence or willful acts or omissions of ACT occurring in the performance of its



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obligations hereunder; provided, such defense and payments are conditioned on the following: (1) that ACT shall be notified in writing by CUSTOMER within 5 business days following its receipt of any such claim, and (2) that ACT shall have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise. ACT shall not be responsible for any Damages or liability resulting, in whole or in part, from the negligence or willful misconduct of CUSTOMER its employees, consultants or agents.

11. **LIMITED WARRANTY**

- a. ACT warrants that the Services provided under this Agreement shall be performed with that degree of skill and judgment normally exercised by recognized professional firms performing the same or substantially similar services. In the event of any breach of the foregoing warranty, provided CUSTOMER has delivered to ACT timely notice of such breach as hereinafter required, ACT shall, at its own expense, at its discretion either (1) re-perform the non-conforming Services and correct the non-conforming Deliverables to conform to this standard, or (2) refund to CUSTOMER that portion of the Price received by ACT attributable to the non-conforming Services and/or Deliverables. No warranty claim shall be effective unless CUSTOMER has delivered to ACT written notice specifying in detail the non-conformities within 90 days after performance of the non-conforming Services or tender of the non-conforming Deliverables. The remedy set forth in this section 11(a) is the sole and exclusive remedy for breach of the foregoing warranty.
- b. **ACT SPECIFICALLY DISCLAIMS ANY OTHER EXPRESS OR IMPLIED STANDARDS, GUARANTEES, OR WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES THAT MAY BE ALLEGED TO ARISE AS A RESULT OF CUSTOM OR USAGE, ANY WARRANTY OF ERROR-FREE PERFORMANCE, OR ANY WARRANTY OF THIRD PARTY PRODUCTS, OR FUNCTIONALITY OF THE CUSTOMER'S HARDWARE, SOFTWARE, FIRMWARE, OR COMPUTER SYSTEMS.**
- c. CUSTOMER represents and warrants to ACT that CUSTOMER has the right to use and furnish to ACT for ACT's use in connection with this Agreement any information, specifications, data or Intellectual Property that CUSTOMER has provided or will provide to ACT in order for ACT to perform the Services and to create the Deliverables identified in Exhibit A.

12. **LIMITATION OF LIABILITY**

- a. CUSTOMER hereby agrees that ACT's total liability to CUSTOMER for any and all liabilities, claims or damages arising out of or relating to this Agreement, regardless of cause or the legal theory asserted, including but not limited to breach of contract or warranty, tort, strict liability, statutory liability or otherwise, shall not, in the aggregate, exceed fees paid to ACT during the previous 12-month period. The parties acknowledge and agree to the foregoing liability risk allocation. Any claim by CUSTOMER against ACT relating to this Agreement must be made in writing and presented to ACT within six (6) months after the date on which this Agreement expires or is otherwise terminated.



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- b. In no event shall either ACT or CUSTOMER be liable to the other for any punitive, exemplary, special, indirect, incidental or consequential damages, including, but not limited to, lost profits, lost business opportunities, loss of use or equipment down time, and loss of or corruption of data, arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even if the parties have been advised of the possibility of such damages or loss, and notwithstanding any failure of essential purpose of any limited remedy.

13. **NOTICES**

Any communication or notice permitted under the terms of this Agreement or required by law must be in writing, and will be deemed given and effective: (i) when delivered personally with proof of receipt, (ii) when sent by e-mail, (iii) when delivered by overnight express, or (iv) three (3) days after the postmark date when mailed by certified or registered mail, postage prepaid, return receipt requested and addressed to a party at its address for notices. Each party's address for notices is stated below. Such address may be changed by a notice delivered to the other party in accordance with the provisions of this Section.

Customer

Margarita Herrera-Garza
Webb County Veterans Treatment
Program
4101 Juarez St.

Laredo, Tx 78040
Email:

ACT

General Manager
ACT

1333 College Pkwy #111

Gulf Breeze, FL 32563
Email: jim.binion@equivant.com

Copy to:

Email:

Copy to:

Contract Manager
ACT
4450 Belden Village Street
Suite 305
Canton, Ohio 44718
Email: contractsmanager@equivant.com

14. **RIGHTS AND REMEDIES NOT EXCLUSIVE**

Unless otherwise expressly provided herein, no right or remedy of a party expressed herein shall be deemed exclusive, but shall be cumulative with, and not in substitution for, any other right or remedy of that party.



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15. **SEVERABILITY**

If any term, condition or provision in this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, the parties shall work in good faith to agree such modification that will to the maximum extent possible preserve the original intention of said term, condition, or provision. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

16. **ASSIGNMENT**

Neither party may sell, assign, transfer, or otherwise convey any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other party, except for the sale of assets, merger, or consolidation.

17. **GOVERNING LAW; VENUE**

This Agreement shall be governed by and construed under the laws of Webb County, Texas, without regard to its laws relating to conflict or choice of laws.

18. **INTERPRETATION**

The captions and headings used in this Agreement are solely for the convenience of the parties, and shall not be used in the interpretation of the text of this Agreement. Each party has read and agreed to the specific language of this Agreement; therefore no conflict, ambiguity, or doubtful interpretation shall be construed against the drafter.

19. **DISPUTES**

The parties will seek a fair and prompt negotiated resolution within ten (10) days of the initial notice of the dispute ("Dispute"). If the Dispute has not been resolved after such time, the parties will escalate the issue to more senior levels. If the parties are unable to resolve any dispute at the senior management level, ACT and the Customer will seek to resolve such Disputes through good faith, amicable discussions, mediation and negotiations. Any Dispute, controversy, claim, question or difference arising out of or relating to the Agreement or any alleged breach hereof, which cannot be resolved by good faith negotiation shall be resolved through mediation with a mutually agreeable mediator (the "Mediator"), which may be initiated by either party upon written notice to the other party. In any action at law or in equity to enforce or interpret the terms of this Agreement, the prevailing party will be entitled to recover relief, if ordered by a court of competent jurisdiction. Any request for mediation of a claim by either party against the other relating to this Agreement must be filed no later than six (6) months after the date on which ACT concludes performance under this Agreement.

Nothing herein shall prevent either party from seeking a preliminary or permanent injunction to preserve the status quo or prevent irreparable harm during the mediation process.

20. **MULTIPLE COPIES OR COUNTERPARTS OF AGREEMENT**

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



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This Agreement shall not be effective until the execution and delivery between each of the parties of at least one set of the counterparts.

21. **FORCE MAJEURE**

Neither party shall be liable for any failure of or delay in performance of its obligations (except for payment obligations) under this Agreement to the extent such failure or delay is due to acts of God, acts of a public enemy, fires, floods, power outages, wars, civil disturbances, epidemics, pandemics, sabotage, terrorism, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes (whether or not the employees' demands are reasonable and/or within the party's power to satisfy), failure of common carriers, Internet Service Providers, or other communication devices, acts of cyber criminals, terrorists or other criminals, acts of any governmental body (whether civil or military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a party is obtaining or must obtain approvals, authorizations, licenses, franchises or permits, inability to obtain labor, materials, power, equipment, or transportation, or other circumstances beyond its reasonable control (collectively referred to herein as "Force Majeure Occurrences"). Any such delays shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which the obligations hereunder are due to be fulfilled shall be extended for a period equal to the time lost as a result of such delays. Neither party shall be liable to the other for any liability claims, damages, or other loss caused by or resulting from a Force Majeure Occurrence.

22. **RELATIONSHIP OF PARTIES**

ACT is an independent contractor in all respects with regard to this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture, agency, or other relationship other than that of contractor and customer.

23. **THIRD PARTY BENEFICIARIES**

This Agreement does not create, and shall not be construed as creating, any rights or interests enforceable by any person not a party to this Agreement.

24. **WAIVER OR MODIFICATION**

Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Delay or failure by either party to exercise any right hereunder, or to enforce any provision of this Agreement will not be considered a waiver thereof and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action. No single waiver will constitute a continuing or subsequent waiver, nor shall a waiver of any one provision of the Agreement be deemed to be a waiver of any other provision.

25. **ENTIRE AGREEMENT; CONFLICTING PROVISIONS**

The Agreement and any schedules and exhibits thereto contain the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous proposals, discussions, agreements, CUSTOMER issued purchase order or document of like intent or purpose, understandings, commitments, representations of any kind, whether oral or written, relating to the subject



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matter hereof or the Services to be provided hereunder. It is expressly agreed that if CUSTOMER issues a purchase order or other document for the services provided under this Agreement, such instrument will be deemed for CUSTOMER's internal use only, and no terms, conditions, or provisions contained therein shall have any effect on the rights, duties or obligations of the parties under, or in any way modify this Agreement, regardless of any failure by ACT to object to such terms, conditions or provisions. In the event that any provision in any attachment conflicts with any provision of this Agreement, then this Agreement shall be deemed to control, and such conflicting provision to the extent it conflicts shall be deemed removed and replaced with the governing provision herein.

26. **SURVIVAL**

All provisions of this Agreement, which by their nature should survive termination of this Agreement, will so survive.

27. **AUTHORIZATION**

Each of the parties represents and warrants that the Agreement is a valid and binding obligation enforceable against it and that the representative executing the Agreement is duly authorized and empowered to sign the Agreement.



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IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have entered into this Agreement as of the Effective Date.

Advanced Computer Technologies, LLC

County of Webb

By: Jim Binion

By: _____

Name: Jim Binion

Name: _____

Title: General Manager

Title: _____

Date: 6/21/2023

Date: _____



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EXHIBIT A

Professional Services will be performed pursuant to the following Pricing and Milestone Payment Schedule.

Professional Services will be performed pursuant to the Statement of Work which is attached to this Agreement and incorporated into this Exhibit A.

ACT shall provide professional services to COURT consisting of:

- Any additional work, including but not limited to re-programming or generation of new reports or data analyses, will be billed separately at ACT's current hourly rate.
- Additional onsite training if requested will be at ACT's current hourly rate plus travel-related expenses.
- All additional services will be quoted and mutually agreed upon in writing by both parties prior to delivery.

Deliverables

- ACT will ensure the Court has access to use the Software for the purposes outlined in this Agreement twenty-four hours a day and seven days a week, absent scheduled system downtime.
- The COURT will be able to run all Software available reports utilizing the Court's data.



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EXHIBIT B

NON-DISCLOSURE AGREEMENT

This Nondisclosure Agreement (“NDA”) is entered into as of the 31st day of May, 2023 (“Effective Date”) by and between Advanced Computer Technologies, LLC d/b/a ACT, a Delaware corporation, with offices at 4450 Belden Village Street, Suite 305, Canton, Ohio 44718 (“ACT”), and the County of Webb, a political subdivision of the State of Texas for and on behalf of Webb County Veterans Treatment Program with offices at 4101 Juarez St. Laredo, TX 78040 (“CUSTOMER”), and describes the terms and conditions pursuant to which ACT and CUSTOMER will share confidential information.

WHEREAS, the parties have entered into a Professional Services Agreement and each party (the “Disclosing Party”) desires to disclose certain confidential and proprietary information to the other party (the “Receiving Party”) in connection therewith.

NOW, THEREFORE, in consideration of the mutual terms, conditions and covenants set forth herein, the parties agree as follows:

1. Confidential Information. For purposes of this NDA, “Confidential Information” means inventions, ideas, intellectual property, formulae, patterns, compilations, programs, methods, techniques, processes, data, designs, algorithms, source code, object code, research plans, business plans, financial forecasts, business opportunities, any components of agreements that contain proprietary information or trade secrets, vendor lists, pricing lists, customer lists, personnel lists, financial statements, and similar information, whether written or oral, that derives independent economic value from not being generally known to the public and is the subject of reasonable efforts to maintain its secrecy. Notwithstanding the foregoing, Confidential Information shall not include information that (a) is or becomes generally available to the public other than as a result of disclosure thereof by the Receiving Party, (b) is or becomes available to the Receiving Party on a non-confidential basis from a source (other than the Disclosing Party) which is not prohibited from disclosing such Confidential Information to the Receiving Party by a legal, contractual or fiduciary obligation to the Disclosing Party, or (c) Receiving Party can demonstrate is independently developed by Receiving Party without use, directly or indirectly, of any Confidential Information. Disclosing Party shall designate Confidential Information as such prior to, during or immediately after disclosure. Disclosing Party shall mark any physical materials as Confidential Information and shall identify any oral information as Confidential Information at the time of disclosure. The foregoing notwithstanding, the terms of this NDA also pertain to information not otherwise identified as Confidential Information if Receiving Party otherwise knows or should reasonably be expected to know of its confidential nature.

The Parties acknowledge that the CUSTOMER is subject to the Texas Public Records Law. If the CUSTOMER is required to produce ACT’s proprietary information or this Agreement under a public records request, the Customer will notify ACT within five (5) business days of the receipt of such request and provide copies of all written communications of any public records request. ACT will work with the CUSTOMER to redact any confidential or proprietary information that ACT deems sensitive identified by ACT to the extent such redaction is allowed by applicable law.

2. Restrictions on Use and Disclosure. Confidential Information furnished directly or indirectly by the Disclosing Party to the Receiving Party or to any directors, officers, employees, agents, attorneys, accountants, advisors, affiliates, and other representatives and potential financing



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sources of the Receiving Party (collectively, "Representatives"), whether obtained by or furnished to the Receiving Party prior, contemporaneously, or subsequent to the date hereof, shall be kept confidential and shall not, without the Disclosing Party's express prior written consent, be disclosed by the Receiving Party or its Representatives in any manner whatsoever, in whole or in part, and shall not be used by the Receiving Party or its Representatives other than in connection with the Proposed Transaction. Without limitation of the foregoing, each party agrees that it will not use the Confidential Information independently or with third parties, directly or indirectly, to solicit the business of any person or entity, to provide services to any person or entity, or otherwise to compete with the Disclosing Party. The obligations of this paragraph shall survive for five (5) years from date that Disclosing Party first discloses such Confidential Information to the Receiving Party.

3. Standard of Care. Each party agrees to reveal the Confidential Information only to its Representatives who need to know the Confidential Information for the purpose of the Proposed Transaction, who are informed of the confidential nature of the Confidential Information and who agree to act in accordance with the terms and conditions of this NDA. The Receiving Party shall be responsible for any breach of this NDA by its Representatives. Each party agrees to take all reasonable precautions necessary to safeguard the Confidential Information from disclosure to any person or entity other than its Representatives. The parties agree that no disclosure of Confidential Information under this NDA shall constitute a waiver of any applicable privilege, including but not limited to the privileges pertaining to attorney-client communications and attorney work product. Each party also agrees not to use or disclose any Confidential Information in violation of securities or insider trading laws and to take reasonable steps to ensure compliance by its employees and agents. The Receiving Party shall be responsible for compliance with laws pertaining to the export of the Confidential Information.

4. Term. This NDA shall be effective as of the date written in the introductory paragraph hereof and shall continue until the earliest of (a) the termination of the Proposed Transaction, (b) notice of termination by one party to the other, or (c) the one-year anniversary hereof. Any termination or expiration of this NDA shall be subject to the survival provision below.

5. Records. Each party to this NDA shall keep a written record of Confidential Information furnished to it by the Disclosing Party and of the location of such Confidential Information. All copies of the Confidential Information shall be returned to the Disclosing Party immediately (a) in the event the Proposed Transaction is not consummated, (b) upon the termination of this NDA, or (c) at any other time upon the Disclosing Party's request.

6. No Ownership or Warranty. Nothing contained in this NDA shall be construed as granting any ownership rights, by license or otherwise, in any Confidential Information disclosed by a party. The Receiving Party acknowledges that the Disclosing Party makes no express or implied representation or warranty as to the accuracy or completeness of the Confidential Information, and the Receiving Party agrees that the Disclosing Party shall have no liability hereunder with respect to the Confidential Information, or errors or omissions therein. The Receiving Party agrees that it is not entitled to rely on the accuracy or completeness of the Confidential Information and shall be entitled to rely solely on the representations and warranties, if any, made to it by the Disclosing Party in any final written agreement regarding the Proposed Transaction.

7. Compelled Disclosure. Each Party to this NDA acknowledges the competitive value and confidential nature of the Confidential Information and that use of such Confidential Information by Receiving Party or disclosure thereof to any third party could be competitively harmful to the Disclosing Party. In the event the Receiving Party or any party to which it transmits the Confidential Information pursuant to this NDA becomes legally compelled to disclose any of the Confidential



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Information, the Receiving Party shall provide the Disclosing Party with prompt notice so that the Disclosing Party may seek a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, the Receiving Party shall furnish only that portion of the Confidential Information which it is advised by written opinion of counsel is legally required, and the Receiving Party shall exercise reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.

8. Remedies. Each party to this NDA acknowledges and agrees that, given the nature of the Confidential Information and the competitive damage that would result if the Confidential Information is used by the Receiving Party other than as is provided for herein or disclosed to any third party, money damages would not be a sufficient remedy for any breach of this NDA, and that, in addition to all other remedies, the aggrieved party shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach. The parties further agree to waive any requirement for the securing or posting of any bond in connection with such remedy.

9. Miscellaneous.

- 9.1. The obligations assumed by the parties pursuant to paragraphs 2, 3, 6, 7, 8, 9.4, 9.8 and 9.9 hereof shall survive the expiration or earlier termination of this NDA.
- 9.2. In the event suit is brought to enforce or interpret any part of this NDA, the prevailing party shall be entitled to recover as an element of the costs of suit, and not as damages, reasonable attorneys' fees to be fixed by the Court.
- 9.3. No provision of this NDA may be waived unless in writing, signed by all of the parties hereto. Waiver of any one provision of this NDA shall not be deemed to be a continuing waiver or a waiver of any other provision. This NDA may be modified or amended only by a written agreement executed by all of the parties hereto.
- 9.4. This NDA shall be governed and construed in accordance with the laws of the Webb County, Texas, without regard to choice of law principles.
- 9.5. All notices under this NDA will be in writing and will be delivered by personal service, facsimile or certified mail, postage prepaid, or overnight courier to such address as may be designated from time to time by the relevant party, which initially shall be the address set forth on the signature page to this NDA. Any notice sent by certified mail will be deemed to have been given five (5) days after the date on which it is mailed. All other notices will be deemed given when received. No objection may be made to the manner of delivery of any notice actually received in writing by an authorized agent of a party.
- 9.6. If any provision of this NDA is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any manner.
- 9.7. Neither party shall make any public announcement concerning this NDA or any Agreement between the parties without the advance approval of the other party. Notwithstanding the foregoing, if the parties are unable to agree on a mutually acceptable announcement, a party may nevertheless issue a press release if it is advised by counsel that such release is necessary to comply with applicable securities or similar laws.



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9.8 Each party represents and warrants that the person signing on its behalf has the requisite authority to bind the respective party to the terms and conditions contained herein.

9.10. This NDA contains the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior discussions, representations, and understandings, whether oral or written.

IN WITNESS WHEREOF, the parties have caused this NDA to be duly executed and delivered as of the day and year set forth above.

Advanced Computer Technologies, LLC

County of Webb

By: Jim Binion

By: _____

Name: Jim Binion

Name: _____

Title: General Manager

Title: _____

Date: 6/21/2023

Date: _____



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SOFTWARE LICENSE & SUPPORT AGREEMENT

This Agreement is made and entered into as of 31st day of May, 2023 (the "Effective Date") by and between Advanced Computer Technologies, LLC, with offices at 4450 Belden Village Street, Suite 305, Canton, Ohio 44718 ("ACT") and the County of Webb, a political subdivision of the State of Texas for and on behalf of Webb County Veterans Treatment Court with offices at 4101 Juarez St. Laredo, TX 78040, herein referred to as "CUSTOMER" or "LICENSEE".

Pursuant to this Agreement, ACT is licensing its DCCM application (hereafter "Software") and providing related services to the CUSTOMER under the terms and conditions of this Agreement;

1. DEFINITIONS

- a. "Confidential Information" means this Agreement and all its exhibits, any amendment hereto signed by both parties, all software listings, Documentation, as defined herein below, information, data, drawings, benchmark tests, specifications, trade secrets, object code and machine-readable copies of the ACT Software, source code relating to the ACT Software, and any other proprietary information supplied to CUSTOMER by ACT, including all items defined as "confidential information" in any other agreement between CUSTOMER and ACT whether executed prior to or after the date of this Agreement.
- b. "Documentation" means any instructions manuals or other materials, and on-line support files regarding the Use of the ACT Software that is provided by ACT.
- c. "ACT Software" means the computer software programs specified in Exhibit A and licensed by ACT hereunder.
- d. "Software" means ACT Software and Third-Party Software provided by ACT.
- e. "Third Party Software" means software licensed by a third party, other than ACT, and is provided by ACT subject to such the license of such third party.
- f. "Update" means error corrections or fixes to the version of the ACT Software specified in Exhibit A.
- g. "Use" means utilization of the Software by CUSTOMER for its own internal information processing services and computing needs.

2. LICENSE AND USE



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2.1 **License.** Subject to the terms and conditions of this Agreement, including without limitation the CUSTOMER's payment of all applicable annual License Fees (as defined below), ACT hereby grants to the CUSTOMER and the CUSTOMER hereby accepts from ACT a nonexclusive, nontransferable license, without the right to grant sublicenses, to use the Software, in executable code form only, for the number of users for which the CUSTOMER has paid the applicable annual License Fees, in accordance with this Agreement, the user manuals provided to the CUSTOMER with the Software in either electronic, online help files or hard copy format ("Documentation") and with the limitations set forth in **Exhibit A**, if any, solely for the CUSTOMER's internal business purposes.

2.2 **Restrictions.** The CUSTOMER acknowledges that the Software and the structure, organization, and source code thereof constitute valuable trade secrets of ACT. Accordingly, except as expressly permitted in Section 2.1 or as otherwise authorized by ACT in writing, the CUSTOMER will not, and will not permit any third party to (a) modify, adapt, alter, translate, or create derivative works from the Software; (b) sublicense, lease, rent, loan, sell, distribute, make available or otherwise transfer the Software to any third party, (c) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Software; or (d) otherwise use or copy the Software except as expressly allowed under Section 2.1 above. The CUSTOMER may make one (1) copy of the Software solely as necessary for archival or backup purposes.

2.3 **Additional Materials.** Unless otherwise expressly agreed to by the parties, the CUSTOMER shall provide and obtain for itself all hardware, software, services and technology necessary to operate the Software not owned or provided by ACT.

3. SUPPORT SERVICES

3.1 **Support.** ACT will provide the CUSTOMER with those support services described on **Exhibit B** ("Support Services").

3.2 **Additional Services.** ACT will provide the CUSTOMER with those services described on **Exhibit A**, if any. The CUSTOMER will pay ACT the fees set forth on **Exhibit A** for any such Services. Additional Services may be added by mutual agreement pursuant to an amendment or signed Statement of Work referencing this Agreement.

3.3 **Hosting.** ACT will provide the CUSTOMER with those hosting services described on **Exhibit C**, if any ("Hosted Services"). The CUSTOMER will pay ACT the fees set forth on **Exhibit A** for any such Hosted Services. Hosting fees are annual fees that are payable in advance for each contract year as described on **Exhibit A**.



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4. FEES AND PAYMENT SCHEDULE

- 4.1 **Fees.** The CUSTOMER will pay ACT the fees set forth on **Exhibit A**. All Fees are non-refundable. Fees are due within thirty (30) calendar days of the Effective Date of this Agreement.
- 4.2 **Payment.** The CUSTOMER agrees to pay ACT within thirty (30) calendar days after the date of any invoice from ACT. Fees for any Services will be billed as set forth on **Exhibit A**. Fees exclude, and the CUSTOMER will make all payments of fees to ACT free and clear of, all applicable sales, use, and other taxes and all applicable export and import fees, customs duties and similar charges. ACT may charge interest on all late payments equal to one and one-half percent (1½%) per month or the maximum rate permitted by applicable law, whichever is less, from the due date until paid.
- 4.3 **Audit Rights.** Upon ten (10) days written prior notice, ACT will have the right to have an independent audit firm inspect the CUSTOMER's records relating to the CUSTOMER's use of the Software, and access and query the CUSTOMER's equipment on which the Software is operating, in order to verify the CUSTOMER's compliance with the terms and conditions of this Agreement. The audit will be performed during the CUSTOMER's normal business hours. The costs of the audit will be paid by ACT, unless the audit reveals that the CUSTOMER has (i) failed to strictly comply with the restrictions set forth in Section 2 or (ii) underpaid the amounts owed to ACT by five percent (5%) or more, in which case the CUSTOMER will reimburse ACT for all reasonable costs and expenses incurred by ACT in connection with such audit. The CUSTOMER will promptly pay to ACT any amounts shown by any such audit to be owing plus interest as provided in Section 4.2. Such audits will be conducted no more than once in any period of six (6) consecutive months.

5. TERM AND TERMINATION

- 5.1 **Term.** The initial term of this Agreement is for twelve months ("Initial Term"). After the Initial term, this Agreement may renew for one-year periods by written mutual agreement unless terminated, in writing, in accordance with this Agreement. EITHER PARTY MAY CHOOSE TO TERMINATE THE AGREEMENT FOR ANY REASON AT THE END OF A CONTRACT YEAR BY GIVING THIRTY DAYS (30) PRIOR NOTICE OF SUCH INTENT. ACT shall provide CUSTOMER with sixty (60) day notice of renewal price, provided however that such renewal price for license and support, for the modules licensed in this agreement, shall not be increased by more than 10% over the prior year's price. Further, parties may mutually agree on Additional Services at the time of renewal, or such other times as mutually agreed.

5.2 **Termination.** Either party shall have the right to terminate this Agreement if the other party is in material default hereunder, which default cannot be cured, or which being capable of cure has not been cured within thirty (30) calendar days of the non-breaching party's written notice of such default or such additional cure period as the non-breaching party may authorize.

5.3 **Effects of Termination.** Upon termination or expiration of this Agreement for any reason, any amounts owed to ACT under this Agreement before such termination or expiration will be immediately due and payable, all licensed rights granted in this Agreement will immediately cease to exist, and the CUSTOMER must promptly discontinue all use of the Software, erase all copies of the Software from the CUSTOMER's computers, and return to ACT or destroy all copies of the Software, Documentation and other ACT Confidential Information in the CUSTOMER's possession or control. Sections 2.2, 3.2, 4.2, 5.2, 5.3, 6, 7.2, 8, 9, 10 and 11, together with any accrued payment obligations, will survive expiration or termination of this Agreement for any reason.

6. PROPRIETARY RIGHTS

6.1 **ACT's Rights.** The CUSTOMER acknowledges and agrees that the Software, Documentation and any Customization of the Software, and all worldwide copyrights, trademarks, service marks, trade secrets, patents, patent applications, know-how, moral rights, contract rights, and other proprietary rights therein, are the exclusive property of ACT and its suppliers and that this Agreement grants the CUSTOMER no title or right of ownership in the Software, Documentation and any Customization of the Software. All rights in and to the Software, Documentation and any Customization of the Software not expressly granted to the CUSTOMER in this Agreement are reserved by ACT and its suppliers. The CUSTOMER agrees not to remove or destroy any proprietary markings or proprietary legends placed upon or contained within the Software, Documentation, any Customization of the Software, or any related materials.

6.2 **CUSTOMER's Rights.** The CUSTOMER retains all right, title and interest in and to the CUSTOMER Data, and ACT acknowledges and agrees that it neither owns nor acquires any additional rights in and to the CUSTOMER Data not expressly granted by this Agreement. "CUSTOMER Data" means the data and content provided by the CUSTOMER in the course of the CUSTOMER's use of the Software in accordance with this Agreement.

7. WARRANTY

7.1 **Limited Warranty.** ACT warrants for a period of ninety (90) days following the date of delivery of the Software to CUSTOMER that the Software will



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substantially operate according to the specifications set forth in the User Guide Documentation. If it is determined by CUSTOMER that the Software does not substantially operate according to such specifications, ACT may, at its option and expense, apply commercially reasonable efforts to designing, coding and implementing programming changes to the source code to correct reproducible errors or correcting misstatements and omissions in the User Guide documentation. CUSTOMER shall report all errors or other defects in the Software to ACT immediately upon their discovery. It is acknowledged that the Software is inherently complex and may contain errors and ACT cannot and does not guarantee to correct all such errors. The remedies set forth in this Section 7 constitutes CUSTOMER's sole and exclusive remedy for breach of this Warranty. The Software contains third party assessments for use by the CUSTOMER. ACT has no proprietary claim on these assessments and therefore disclaims any and all liability, including any express or implied warranties, whether oral or written, for such third-party assessments. The customer acknowledges that no representations have been made.

- 7.2 **No other Warranties.** ACT makes no other warranties, whether express, implied, or statutory regarding or relating to the software or the documentation, or any materials or services furnished or provided to customer under this agreement, including support. ACT specifically disclaims all implied warranties of merchantability and fitness for a particular purpose with respect to the software, documentation and said other materials and services, and with respect to the use of any of the foregoing.

8. LIMITATION OF LIABILITY

IN NO EVENT WILL ACT BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES, OR FOR ANY LOST DATA, LOST PROFITS OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING FROM OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE), EVEN IF ACT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ACT'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT AND THE SOFTWARE, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF FEES PAID TO ACT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY. The CUSTOMER acknowledges that these limitations reflect the allocation of risk set forth in this Agreement and that ACT would not enter into this Agreement without these limitations on its liability, and the CUSTOMER agrees that these limitations shall apply notwithstanding any failure of essential purpose of any limited remedy. In addition, ACT disclaims all liability of any kind of ACT's licensors and suppliers.

9. INDEMNIFICATION

- 9.1 **Indemnity by ACT.** ACT will defend at its own expense any action against the CUSTOMER brought by a third party to the extent that the action is based upon a claim that the Software infringes any U.S. patents or any copyrights or misappropriates any trade secrets of a third party, and ACT will pay those costs and damages finally awarded against the CUSTOMER in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on the CUSTOMER (a) notifying ACT promptly in writing of such action, (b) giving ACT sole control of the defense thereof and any related settlement negotiations, and (c) cooperating and, at ACT's request and expense, assisting in such defense. If the Software becomes, or in ACT's opinion is likely to become, the subject of an infringement claim, ACT may, at its option and expense, either (i) procure for the CUSTOMER the right to continue using the Software, (ii) replace or modify the Software so that it becomes non-infringing, or (iii) accept return of the Software, terminate this Agreement upon written notice to the CUSTOMER. Notwithstanding the foregoing, ACT will have no obligation under this Section or otherwise with respect to any infringement claim based upon (a) any use of the Software not in accordance with this Agreement or for purposes not intended by ACT, (b) any use of the Software in combination with other products, equipment, software, or data not intended by ACT to be used with the Software (c) any use of any release of the Software other than the most current release made available to the CUSTOMER, or (d) any modification of the Software by any person other than ACT or its authorized agents or subcontractors. THIS SECTION STATES ACT'S ENTIRE LIABILITY AND THE CUSTOMER'S EXCLUSIVE REMEDY FOR INFRINGEMENT CLAIMS AND ACTIONS.
- 9.2 **Indemnity by the CUSTOMER.** The CUSTOMER agrees to indemnify, defend and hold harmless ACT and its employees, directors, stockholders, officers and other affiliates, agents, representatives, successors and assigns, from and against any and all liabilities, losses, damages, costs, and other expenses (including attorneys' fees) arising from the intentional misconduct or negligence of the CUSTOMER, its employees, officers, affiliates, agents, and representatives.

10. CONFIDENTIALITY

- 10.1 **Confidential Information.** Each party (the "Disclosing Party") may from time to time disclose to the other party (the "Receiving Party") certain information regarding the business of the Disclosing Party and its suppliers, including technical, marketing, financial, employee, planning, and other confidential or proprietary information ("Confidential Information"). Any information that the Receiving Party knew or should have known, under the circumstances, was considered confidential or proprietary by the Disclosing Party will be considered Confidential Information of the Disclosing Party. The Software,



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including without limitation any routines, subroutines, directories, tools, programs, or any other technology included therein, shall be considered ACT's Confidential Information.

- 10.2 Protection of Confidential Information.** The Receiving Party will not use any Confidential Information of the Disclosing Party for any purpose not expressly permitted by this Agreement, and will disclose the Confidential Information of the Disclosing Party only to the employees or contractors of the Receiving Party who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder. The Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner as the Receiving Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.
- 10.3 Exceptions.** The Receiving Party's obligations under Section 10.3 with respect to any Confidential Information of the Disclosing Party will terminate if such information: (a) was already known to the Receiving Party at the time of disclosure by the Disclosing Party; (b) was disclosed to the Receiving Party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) was independently developed by the Receiving Party without access to, or use of, the Disclosing Party's Confidential Information. In addition, the Receiving Party will be allowed to disclose Confidential Information of the Disclosing Party to the extent that such disclosure is (i) approved in writing by the Disclosing Party, (ii) necessary for the Receiving Party to enforce its rights under this Agreement in connection with a legal proceeding; or (iii) required by law or by the order of a court of similar judicial or administrative body, provided that the Receiving Party notifies the Disclosing Party of such required disclosure promptly and in writing and cooperates with the Disclosing Party, at the Disclosing Party's request and expense, in any lawful action to contest or limit the scope of such required disclosure.
- 10.4 Return of Confidential Information.** The Receiving Party will return to the Disclosing Party or destroy all Confidential Information of the Disclosing Party in the Receiving Party's possession or control and permanently erase all electronic copies of such Confidential Information promptly upon the written request of the Disclosing Party upon the expiration or termination of this Agreement. Upon request from the Disclosing Party, the Receiving Party will certify in writing signed by an officer of the Receiving Party that it has fully complied with its obligations under this Section 10.4.
- 10.5 Confidentiality of Agreement.** Neither party will disclose any terms of this Agreement to anyone other than its attorneys, accountants, and other



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professional advisors except (a) as required by law or (b) pursuant to a mutually agreeable press release or (c) in connection with a contemplated transfer of such party's business permitted by Section 10.2 (provided that any third party to whom the terms of this Agreement is to be disclosed signs a confidentiality agreement reasonably satisfactory to the other party).

11. GENERAL PROVISIONS

11.1 **Notices.** All notices, requests, demands, or other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by certified mail, return receipt requested, or delivered in person to whom it is to be given at the addresses set forth below or to such other addresses as a party may designate pursuant to this notice provision. Any notice given shall be deemed to have been received on the date on which it is delivered personally or if mailed, on the third business day following the mailing thereof.

Customer

Margarita Herrera-Garza
Webb County Veterans Treatment
Program
4101 Juarez St.

Laredo, TX 78040
Email:

ACT

General Manager
ACT

1333 College Pkwy #111

Gulf Breeze, FL 32563
Email: jim.binion@actinnovations.com

Copy to:

Email:

Copy to:

Contract Manager
ACT
4450 Belden Village Street
Suite 305
Canton, Ohio 44718

Email: contractsmanager@equivant.com

11.2 **Assignment.** Neither the CUSTOMER nor ACT may assign or transfer, by operation of law or otherwise, any of its rights under this Agreement (including the license rights granted to the CUSTOMER to the Software), in whole or in part, to any third party, without prior written approval of the other party, which shall not unreasonably be withheld or delayed; except that ACT may assign this Agreement, without consent, to any successor to all or substantially all its business or assets to which this Agreement relates, whether by merger, sale

of assets, sale of stock, reorganization or otherwise. Any attempted assignment or transfer in violation of the foregoing will be null and void.

- 11.3 **Entire Agreement.** This Agreement and the exhibits and schedules attached hereto constitute the entire agreement of the parties with respect to the subject matter hereof, and this Agreement supersedes all previous agreements, whether written or oral and all negotiations as well as any previous agreements presently in effect between the Provider and the Agency relating to the subject matter hereof. There shall be no modification, rescission, waiver, release or amendment of any provision of this Agreement, except by an express written amendment to this Agreement signed by authorized representatives of each of the parties hereto, and for the CUSTOMER by same person or persons, or their successors and/or expressly authorized designee(s), who signs the original Agreement. The terms of any purchase order or similar document submitted by the CUSTOMER to ACT will have no effect.
- 11.4 **Jurisdiction and Venue.** This Agreement shall be governed by the laws of Webb County, Texas, without regard to its principles of conflicts of law.
- 11.5 **Dispute Resolution.** The parties will seek a fair and prompt negotiated resolution within ten (10) days of the initial notice of the dispute (“Dispute”). If the Dispute has not been resolved after such time, the parties will escalate the issue to more senior levels. If the parties are unable to resolve any dispute at the senior management level, ACT and the Customer will seek to resolve such Disputes through good faith, amicable discussions, mediation and negotiations. Any Dispute, controversy, claim, question or difference arising out of or relating to the Agreement or any alleged breach hereof, which cannot be resolved by good faith negotiation shall be resolved through mediation with a mutually agreeable mediator (the “Mediator”), which may be initiated by either party upon written notice to the other party. In any action at law or in equity to enforce or interpret the terms of this Agreement, the prevailing party will be entitled to recover relief, if ordered by a court of competent jurisdiction. Any request for mediation of a claim by either party against the other relating to this Agreement must be filed no later than six (6) months after the date on which ACT concludes performance under this Agreement.

Nothing herein shall prevent either party from seeking a preliminary or permanent injunction to preserve the status quo or prevent irreparable harm during the mediation process.

- 11.6 **Compliance with Laws.** The CUSTOMER shall comply with all applicable export and import control laws and regulations concerning its use of the Software and, in particular, the CUSTOMER will not export or re-export the Software without all required government licenses and the CUSTOMER agrees to comply with the export laws, restrictions, national security controls

and regulations of all applicable foreign agencies or authorities. The CUSTOMER agrees to defend, indemnify, and hold harmless ACT from and against any violation of any applicable laws or regulations by the CUSTOMER or any of its agents, officers, directors, or employees.

- 11.7 **Force Majeure.** Neither party shall be liable for any failure of or delay in performance of its obligations (except for payment obligations) under this Agreement to the extent such failure or delay is due to acts of God, acts of a public enemy, fires, floods, power outages, wars, civil disturbances, epidemics, pandemics, sabotage, terrorism, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes (whether or not the employees' demands are reasonable and/or within the party's power to satisfy), failure of common carriers, Internet Service Providers, or other communication devices, acts of cyber criminals, terrorists or other criminals, acts of any governmental body (whether civil or military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a party is obtaining or must obtain approvals, authorizations, licenses, franchises or permits, inability to obtain labor, materials, power, equipment, or transportation, or other circumstances beyond its reasonable control (collectively referred to herein as "Force Majeure Occurrences"). Any such delays shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which the obligations hereunder are due to be fulfilled shall be extended for a period equal to the time lost as a result of such delays. Neither party shall be liable to the other for any liability claims, damages, or other loss caused by or resulting from a Force Majeure Occurrence.
- 11.8 **U.S. Government End Users.** If the CUSTOMER is a branch or agency of the United States Government, the following provision applies. The Software is comprised of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 and are provided to the Government (a) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (b) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227.7202-1 and 227.7202-3.
- 11.9 **Remedies.** Except as provided in Section 9.1, the parties' rights and remedies under this Agreement are cumulative. The CUSTOMER acknowledges that the Software contains valuable trade secrets and proprietary information of ACT, that any actual or threatened breach of Section 2 will constitute immediate, irreparable harm to ACT for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. If any legal action is brought by ACT to enforce this Agreement, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.



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- 11.10 **Waivers.** All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.
- 11.11 **Severability.** If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.
- 11.12 **Construction.** The headings of Sections of this Agreement are for convenience and are not to be used in interpreting this Agreement. As used in this Agreement, the word “including” means “including but not limited to.”

[Signatures Appear On Following Page]



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IN WITNESS WHEREOF, the ACT designated agent whose signature appears below, hereby warrants that he has been authorized to execute this Agreement on behalf of ACT and hereby accepts and binds ACT to the terms and conditions as of the Effective Date.

Advanced Computer Technologies, LLC

County of Webb

By: Jim Binion
Name: Jim Binion
Title: General Manager
Date: 6/21/2023

By: _____
Name: _____
Title: _____
Date: _____

Please list the appropriate **Billing** contact information if different from above:

Contact Name: Tega Hovern Title: Finance Manager
Address: _____
Phone: 334-262-6882 Email: accounting@equivant.com

Please list the correct **Project Lead** contact information if different from above:

Contact Name: _____ Title: _____
Address: _____
Phone: _____ Email: _____



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EXHIBIT A Software and Hosting Fee Schedule

Software: The CUSTOMER shall be entitled to use the Software set forth below in accordance with the terms and conditions of the Agreement, including, without limitation, the restrictions indicated in this Exhibit.

Software License, Maintenance and Support Fees: The Software License, Maintenance and Support Fees are annual fees that are payable in advance for each contract year in which the Software License, Maintenance and Support Services are to be provided. The fees will be negotiated each year based on the number of users and the package of product modules provided.

Additional Services: Additional Services are billed as delivered unless otherwise agreed. Expenses are billed at actual cost as incurred.

Hosting: The minimum term for the provision of any Hosting Services provided under this Agreement shall for a period of twelve (12) months. If ACT is to provide Hosting Services, Exhibit C will contain the terms and scope for delivery of Hosting Services.

CONTRACT TERM: May 31, 2023 through May 30, 2024

Product	Description	Fee	Invoiced
DCCM	Annual license, support and hosting	\$7,000.00	Annually

EXHIBIT B Support Services

- 1.1 ACT, or its agents, shall provide support services as described in this **Exhibit B** ("Support Services") for the Software. The CUSTOMER will have access to ACT's support services during normal business hours (8:00 A.M. - 5:00 P.M., E.S.T.), Monday through Friday, excluding published holidays ("Support Hours"). The initial term for the provision of Support Services will be concurrent with the term of the ACT license as set forth on **Exhibit A**, unless the Agreement is terminated in accordance with Section 5.1 of this Agreement.
- 1.2 ACT will provide the following Support Services to the CUSTOMER:
- 1.2.1 Correction of confirmed defects in the Software, based upon deviations from documented software functionality;
 - 1.2.2 Documentation updates via published Release Notes;
 - 1.2.3 Assistance in resolving issues with Software.
- 1.3 Response Times and Availability.

The Customer Care Department is the primary means of communication between the CUSTOMER and ACT regarding all ACT software issues. Customer Care provides the most efficient means to track, manage, and resolve all ACT software issues. The following table provides information on ACT's categorization of issues.

Priority	Criteria
<p><u>Urgent</u> Extremely Severe Business Impact</p>	<p>Issue results in broad disruption or degradation of production environment services (not caused by the Customer's hardware or environment) causing a severe business impact to the Customer, and for which no acceptable workaround exists, including where:</p> <ul style="list-style-type: none"> · A core business function is prevented from being carried out; or · An issue results in a disruption or degradation for multiple core business functions that affect one or more of the Customer's business groups.
<p><u>High</u> Serious Business Impact</p>	<p>An error or Software issue related to a core system or business function that causes a serious business impact to the Customer by impeding the normal intended use of the software but allowing processing to continue in a restricted manner, and for which there is no known system workaround.</p>

Priority	Criteria
<u>Normal</u> Moderate Business Impact	A software operational error related to a core system or business function that causes a moderate to low business impact to the Customer but does not cause a serious impediment to the normal intended use of the software, and for which a system workaround may exist; or questions about how to use the application.
<u>Low</u> Little or No Business Impact	System functionality is largely correct except for minor, display or cosmetic errors with non-core functions of the software that causes little or no business impact to the Customer. Includes requests for documentation changes or corrections.

- 1.3.1 **Response Time.** ACT will respond as quickly as possible to each request, but uses the response time targets for Average First Reply Time, during the defined hours of operation, provided in the table below. First Reply Time is defined as the time it takes an ACT Customer Care Agent to respond to CUSTOMER's request for assistance.

	Average First Reply Time Target	Average Resolution Time Target
Urgent	1 hour	As soon as possible, but no more than 24 hours
High	8 business hours	48 hours (not including development or release time)
Normal	2 business days	5 business days (not including development or release time)
Low	2 business days	Mutually agreed time or Scheduled for future release

- 1.3.2 **Resolution Time.** Resolution time will vary depending on the severity and complexity of the reported problem. Resolution time is defined as the time it takes ACT to sufficiently remedy the problem or return the system to operational status. Resolution may mean that a temporary fix has been provided to correct a problem until a permanent solution can be delivered. Average Resolution Time targets are provided in the table above. Elapsed time for development effort is not included in Resolution time.

1.4 **Exceptions.**

- 1.4.1 Inquiries related to interpretation of results or configuration decisions based on CUSTOMER policies and/or procedures are NOT included in the Support Services.

- 1.4.2 ACT will provide the Support Services only for the most current release and the immediately preceding major release of the Software. ACT may elect to cease supporting a platform upon twelve (12) months' notice to the CUSTOMER. ACT shall have no responsibility under this Agreement to fix any errors in the Software arising out of or related to the following causes: (a) the CUSTOMER's modification or combination of the Software (in whole or in part), (b) use of the Software in an environment other than any hardware and operating system platform which ACT supports for use with the Software ("Supported Environment"); or (c) hardware problems.
- 1.5 ACT will provide updates for the Software as and when developed for general release at ACT's sole discretion.
 - 1.5.1 ACT hosted CUSTOMER's will request the software update to be performed, and will approve the modifications necessary to the active Test/Production environments when an update is required. ACT will perform the software update within its hosted environment upon approval. Documentation (Release Notes) will be made available to inform the CUSTOMER of software modifications.
- 1.6 The CUSTOMER is responsible for undertaking the proper supervision, control and management of its use of the Software, including, but not limited to: (a) assuring proper Supported Environment configuration, Software installation and operating methods; and (b) following industry standard procedures for the security of data, accuracy of data inputs and outputs, and back-up plans, including restart and recovery in the event of hardware or software error or malfunction.



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EXHIBIT C

ACT Hosting Services

ACT utilizes the AWS GovCloud platform for all hosted services. The general scope of services addressed by this Agreement includes the operation, maintenance, and support of the:

- Application and Database hosted under this agreement
- Database security
- Database Backup services, with retention
- Data Center server operation.

Amazon Web Services Service Level Agreement

Amazon Web Services (AWS) is the hosting provider for ACT's hosting services. AWS provides secured data centers within the United States, server hardware, scheduled maintenance services, replication options, back-up utilities and service utilities needed for monitoring and penetration testing.

AWS will use commercially reasonable efforts to make the services each available for each AWS region with a Monthly Uptime Percentage of at least 99.99%. This Service Commitment stipulates that major routing devices within the AWS operated data center and internal network are reachable from the United States internet 99.99% of the time. AWS's hosting SLA includes exclusions for scheduled maintenance, malicious attacks, and legal actions that may impact network uptime.

Amazon SLA Exclusions

The Service Commitment does not apply to any unavailability, suspension or termination an included service, or any other service performance issues: (i) caused by factors outside of Amazon's reasonable control, including any force majeure event or Internet access or related problems beyond the demarcation point of the applicable Included service; (ii) that result from any actions or inactions of CUSTOMER or any third party, including failure to acknowledge a recovery volume; (iii) that result from CUSTOMER'S equipment, software or other technology and/or third party equipment, software or other technology (other than third party equipment within Amazon's direct control); or (iv) arising from our suspension or termination of CUSTOMER'S right to use the applicable service in accordance with this Agreement. If availability is impacted by factors other than those used in Amazon's Monthly Uptime Percentage calculation, then Amazon may issue a service credit considering such factors at their discretion.

ACT Scope of Services

All of the services, functions, processes, and activities described below will be collectively described as the "Hosting Services" for purposes of this Agreement.



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I. Application

Application refers to the CUSTOMER'S software licensed from ACT pursuant to the Software License Agreement. The Application is hosted by ACT pursuant to this Agreement.

II. Support Software

Support Software includes the operating system, utilities, database software, monitoring services and necessary licenses required to operate the Application and is provided by ACT as part of the scope.

- Monitoring includes Maintenance and Performance monitors on bandwidth access (connectivity), server up time and processing stability, unauthorized access, and back door attacks.

III. Backups

The Production Database will be backed up as outlined here:

- Full back-up of Production and Test database files executed each Sunday: 10:00 PM EST
- Differential back-up of Production and Test database files executed nightly at 10:00PM EST
- Transaction log back-up of Production database files executed every 5 minutes. (Test databases are not configured for full transaction logs.)
- Backups are physically stored in the assigned AWS data center.
- Backup files are retained for 14 calendar days.
- An image of all data and backup drives are securely transferred daily at 6:00AM EST to an encrypted storage volume located in a second storage location within the assigned data center.
- All backup files are stored electronically, on approved servers. No other media is used to backup, store, or secure offsite backups.

IV. Maintenance Schedule

Maintenance is scheduled and delivered by ACT technical engineers. Maintenance refers to the maintaining all ACT host servers that house application software and databases. Hosted servers may not be available to the CUSTOMER during regularly scheduled maintenance windows; maintenance activates are mandatory. The ACT maintenance schedule is set as follows:

- The first Sunday of every month from 9PM to 12PM EST (*Windows and Security Updates*).

Hours of System Operations

The Application will be accessible and available to the CUSTOMER and capable of normal operating functions 24 hours a day, seven days a week, except for periods of Scheduled Maintenance and previously approved outages communicated by the hosting provider. ACT



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will not be responsible for inaccessibility arising from communications problems occurring anywhere beyond the ACT production server side of the router resident at the AWS Data Center.

Compliance Status

AWS GovCloud (US) allows customers at the state, local and federal level to adhere to ITAR, FedRamp/FISMA High and DoD SRG impact levels 2, 4 and 5. All AWS published compliancy certifications can be referenced directly at:

<https://aws.amazon.com/compliance/programs/>

Customer Responsibilities

The CUSTOMER is responsible for:

- Assigning a primary and alternate CUSTOMER representative to coordinate all communications and activities related to ACT hosting services. These representatives should be authorized decision-makers with appropriate technical capabilities.
- Providing user identification data and determining the appropriate security profile for each user account within the software application. CUSTOMER will control security at the Application level within all hosted environments.
- All printing activities. No print job will print at the Data Center and all physical printing requirements will be handled by the CUSTOMER. This includes the purchase and installation of printers at CUSTOMER'S sites for the Application being utilized as defined in the Scope of Services.
- Installing, operating and maintaining all workstation software (and CUSTOMER'S LAN, existing data communications configuration, hardware, or software required at the CUSTOMER'S site) except as otherwise stipulated in the Scope of Services. ACT network and network responsibility includes the data center hardware configuration (servers, routers) to the boundary of the CUSTOMER network. Internet bandwidth and uptime from the CUSTOMER'S entry point (physical location/s) is the responsibility of the CUSTOMER.
- Requesting and scheduling all software release upgrades with ACT technical staff. This must be performed a minimum of once per contract year in order to maintain compliance with ACT's End of Life Software Policy.
- Testing application upgrades and/or application fixes applied by ACT to Applications used by CUSTOMER. CUSTOMER will test all software release updates and fixes prior to their introduction to the CUSTOMER's Production environment within a mutually agreed upon time frame. Approval to alter the hosted test and production environments is required by the CUSTOMER.

The following pertains to all CUSTOMER systems hosted by ACT:

1. Confidentiality, Integrity, Availability (CIA)

- ACT shall protect the Confidentiality, Integrity, and Availability (CIA) of all CUSTOMER Data ensuring extra levels of security. All CUSTOMER information must



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remain private and permit redaction of protected information before publication. Audit trails cannot be altered.

2. Breach Notification

- ACT agrees that upon discovery of unauthorized access to CUSTOMER Data, ACT shall notify CUSTOMER both orally and in writing. In no event shall the notification be made more than forty-eight (48) hours after ACT knows or reasonably suspects unauthorized access has or may have occurred. In the event of a suspected unauthorized access, ACT agrees to reasonably coordinate with CUSTOMER to investigate the occurrence.

3. Data

- All CUSTOMER data will remain in the 48 contiguous states at all times.