

AGREEMENT NO. 260334B
MANAGED SERVICES AGREEMENT
BY AND BETWEEN LIBERTY VOTE USA INC. AND NAPA COUNTY, CA

This Managed Services Agreement (the “Agreement”), dated February __, 2026, is made between Napa County, CA (the “Customer”), and Liberty Vote USA Inc., a corporation organized under the laws of the State of Delaware (“Liberty Vote”) whose business address is 410 17th Street, Suite 850, Denver, Colorado 80202. This Agreement may refer to Liberty Vote and the Customer as the “Parties,” or may refer to Liberty Vote or the Customer individually as a “Party.”

WHEREAS, on July 1, 2018, Customer entered into an agreement with Dominion Voting Systems, Inc., a corporation organized under the laws of the State of Delaware (“Dominion”), 1201 18th St, Ste 210 Denver, Co. 80202-1421, Agreement No. 190125B for County’s purchase of voting system services, licenses and related solutions; and

WHEREAS, on May 28, 2025, Customer and Dominion entered into Amendment No.1 to Agreement No. 190125B, extending the term of Agreement No. 190125B to June 30, 2032; and

WHEREAS, Customer, through its Registrar of Voters, was thereafter notified that Dominion Voting was acquired by Liberty Vote; and

WHEREAS, the Customer desires to continue its use of voting system services, and software use licenses; and

WHEREAS, Liberty Vote designs, manufactures, licenses, and provides services for its voting systems; and

WHEREAS, the parties would like to terminate Agreement No. 19012B and enter into a new agreement for the continued provision of voting system services, licenses and related solutions.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and in accordance with the terms and conditions set forth herein, Liberty Vote agrees to license and furnish the System (as defined herein) to the Customer.

1. Composition of Agreement. Exhibits A and B are attached and incorporated herein by reference and form a part of this Agreement. This Agreement consists of the general terms and conditions contained in the following sections, together with the listed Exhibits:

Exhibit A: Pricing Summary and Deliverables Description

Exhibit B: Software License and Hardware Warranty Terms

Exhibit C: Insurance

2. Definitions. For the purposes of this Agreement, the following are defined terms:

2.1. “Acceptance” and variations thereof, means the successful completion by the Customer

of the acceptance testing performed on each component of Liberty Vote Hardware and Software, after delivery in accordance with testing criteria developed and agreed to by the parties, or the occurrence of other events defined in Section 8.

- 2.2. “Confidential Information” means those materials, documents, data, and technical information, specifications, business information, customer information, or other information that a Party (the “Disclosing Party”) maintains as trade secrets or confidential and which are disclosed to another Party (the “Receiving Party”) in tangible form marked as “confidential,” or with words having similar meaning, which includes without limitation, Liberty Vote Software and associated documentation.
- 2.3. “Liberty Vote Hardware” means the ImageCast® system hardware as more specifically described in Exhibit A.
- 2.4. “Liberty Vote Software” means software programs licensed by Liberty Vote and any associated documentation as more specifically described in Exhibit A.
- 2.5. “Election Management System Hardware” or “EMS Hardware” means third party hardware required for operating Liberty Vote Software as used in conjunction with the Liberty Vote Hardware.
- 2.6. “License” has the meaning set forth in Section 7.
- 2.7. “System” means the combination of Liberty Vote Software, Liberty Vote Hardware and EMS Hardware.
- 2.8. “Third Party Software” means manufacturer supplied software, or firmware owned by third parties, which Liberty Vote provides to Customer pursuant to sublicenses or end user license agreements with the owners of such Third Party Software. Third Party Software includes, but is not limited to, various operating systems, software drivers, report writing subroutines, and firmware.
- 3. **Term of Agreement.** To ensure there is no lapse in service or payment for services, the Parties intend that the Term of this Agreement shall begin on May 28, 2025 (“Effective Date”) and shall continue until June 30, 2032, unless sooner terminated or extended as provided herein.
- 4. **Liberty Vote’s Responsibilities.** Liberty Vote shall:
 - 4.1. Deliver the System and services as described in Exhibit A - Pricing and Payment Summary and Deliverables Description.
 - 4.2. Provide the Customer with the Liberty Vote Software use License and related warranties as described in Exhibit B - Software License and Hardware Warranty Terms.
 - 4.3. Provide the Customer with the Liberty Vote Hardware Warranty as described in Exhibit B - Software License and Hardware Warranty Terms.

- 4.4. Assign a Liberty Vote project manager (“Liberty Vote Project Manager”) to oversee the general operations of the project. The Liberty Vote Project Manager will be the primary contact for the project. The Liberty Vote Project Manager will be responsible for all services including, resource planning and coordination, product delivery, issue resolution and for all administrative matters such as invoices and payments.
- 4.5. Provide the Customer with reproducible electronic copies of the user documentation.
- 4.6. Assist in the Acceptance Testing process as required by Section 9 herein.
- 4.7. Provide invoices to Customer according to the payment schedule listed in Exhibit A and pursuant to the payment schedule described in Section 5.1 herein.

5. Customer's Responsibilities. Customer shall:

- 5.1. Pay invoices in a timely manner and no later than thirty (30) calendar days from receipt of a Liberty Vote invoice. Payments specified in this Section 5 are exclusive of all excise, sale, use and other taxes imposed by any governmental authority, all of which taxes shall be reimbursed by the Customer. If the Customer is exempt from taxes, Customer shall supply Liberty Vote a tax exemption certificate or other similar in a form demonstrating its exempt status upon request.
- 5.2. Assign a Customer project manager (“Customer Project Manager”), who shall be responsible for review, analysis and acceptance of the System and the coordination of Customer personnel, equipment, vehicles and facilities. The Customer Project Manager shall be empowered to make decisions on behalf of the Customer with respect to the work being performed under this Agreement. The Customer Project Manager shall also have direct access to the Customer's top management at all times for purposes of problem resolution.
- 5.3. Conduct Acceptance testing process as required by Section 9.
- 5.4. Provide reasonable access and entry into all Customer property required by Liberty Vote to perform the services described in this Agreement. All such access and entry shall be provided at Customer's expense.
- 5.5. Agree to use only commercial printers for all ballot printing and production that are qualified by Liberty Vote through Liberty Vote's Ballot Printer Qualification Program.

6. Title and Risk of Loss.

- 6.1. Title to the System. The System shall be provided by Liberty Vote to the Customer as part of the managed services described herein. Title to the System or any portion thereof, shall not pass to the Customer and shall remain with Liberty Vote.
- 6.2. Software. Software, including firmware, is licensed not sold. The original and any copies

of the Liberty Vote Software, or other software provided pursuant to this agreement, in whole or in part, including any subsequent improvements or updates, shall remain the property of Liberty Vote, or any third party that owns such software.

- 6.3. Risk of Loss. Liberty Vote shall bear the responsibility for all risk of physical loss or damage to each portion of the System until such portion is delivered to Customer. Customer shall provide Liberty Vote with a single location for shipment and Liberty Vote shall not be responsible for shipping to more than one location. To retain the benefit of this clause, Customer shall notify Liberty Vote of any loss or damage within ten business days of the receipt of any or all portions of the System, or such shorter period as may be required to comply with the claims requirements of the shipper and shall cooperate in the processing of any claims made by Liberty Vote.

6.4. Insurance.

- 6.4.1. Customer shall, at its own expense, obtain and maintain property and casualty insurance for the Hardware and Liberty Vote Software against all risks of loss or damage. The amount of such insurance shall not be less than the replacement cost of the Hardware and Liberty Vote Software. All policies for such insurance shall (i) designate Liberty Vote as an additional insured and Liberty Vote and Customer as loss payees, as their interests may appear and (ii) contain a provision that entitles Liberty Vote to written notice prior to cancellation or modification of such insurance policy.
- 6.4.2. Prior to commencing the scope of services, Liberty Vote shall obtain and maintain in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the insurance coverage set forth in Exhibit C.
- 6.4.3. Liberty Vote shall require its subcontractors and any other entity or person providing services under this Agreement to comply with the Workers Compensation, General Liability, and where applicable, the Cybersecurity Liability insurance requirements set forth in Exhibit C.

7. Software License and Use.

- 7.1. License. Upon mutual execution of this Agreement, Liberty Vote grants to the Customer, and the Customer accepts a non-exclusive, non-transferable, license ("License") to use the Liberty Vote Software subject to the terms and conditions of this Agreement and the Software License Terms attached hereto as Exhibit B.
- 7.2. Third Party Software. The System includes Third Party Software, the use of which is subject to the terms and conditions imposed by the owners of such Third Party Software. Customer consents to the terms and conditions of the third party license Agreements by Customer's first use of the System.

8. Warranties.

- 8.1. Liberty Vote Software Warranty. The Liberty Vote Software warranty is subject to the terms of Exhibit B - Software License and Hardware Warranty Terms.
- 8.2. Liberty Vote Hardware Warranty Terms. The Liberty Vote Hardware Warranty is subject to the terms of Exhibit B - Software License and Hardware Warranty Terms.
- 8.3. Third Party Products. The warranties in this Sections 8 do not apply to any third party products. However, to the extent permitted by the manufacturers of third party products, Liberty Vote shall pass through to Customer all warranties such manufacturers make to Liberty Vote regarding the operation of third party products.

9. Acceptance.

- 9.1. Liberty Vote Software or Liberty Vote Hardware Testing. After delivery of Liberty Vote Software or Hardware, the Customer will conduct Acceptance testing of such units, in accordance with the Acceptance criteria developed and mutually agreed to by the Parties. Acceptance testing shall occur no later than ten business days after delivery.
- 9.2. System Acceptance Testing. To the extent not tested as part of the testing pursuant to Subsections 9.1, upon completing the installation of the System, the Customer will conduct system acceptance testing, according to the Acceptance test procedures developed and updated, from time to time, by Liberty Vote. Such Acceptance testing shall occur at a time mutually agreed upon by the Parties, but no later than ten business days after installation of the System.
- 9.3. Acceptance/Rejection. After testing, if the Liberty Vote Software or Hardware does not conform to user documentation or the Acceptance testing criteria, Customer will notify Liberty Vote in writing within five (5) business days. Liberty Vote will, at its own expense, repair or replace the rejected Liberty Vote Software or Hardware within thirty (30) days after receipt of Customer's notice of deficiency. The foregoing procedure will be repeated until Customer finally accepts or rejects the Liberty Vote Software, or Hardware in writing in its sole discretion.

10. **Force Majeure.** Should any circumstances beyond the control of either Party occur that delay or render impossible the performance of any obligation due under this Agreement, such obligation will be postponed for the period of any delay resulting from any such circumstances, plus a reasonable period to accommodate adjustment to such extension, or cancelled if performance has been rendered impossible thereby. Such events may include, without limitation, accidents; war, acts of terrorism; natural disasters; pandemic; labor disputes; acts, laws, rules or regulations of any government or government agency; or other events beyond the control of the Parties. Neither Party shall be liable under this Agreement for any loss or damage to the other Party due to such delay or performance failures. Notwithstanding the foregoing, both Parties shall use commercially reasonable efforts to minimize the adverse

consequences of such circumstances. This Section shall not operate to excuse any Party from paying amounts owed pursuant to this Agreement.

11. Indemnification. Liberty Vote agrees to indemnify, defend and save harmless Customer, its officers, agents and employees from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses due to the injury or death of any individual, or the loss or damage to any real or tangible personal property, resulting from the willful misconduct or negligent acts or omissions of Liberty Vote or any of its affiliates, agents, subcontractors, employees, suppliers, or laborers furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement.

12. Limitation of Liability. EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS CONTAINED IN THIS AGREEMENT, LIBERTY VOTE'S TOTAL AGGREGATE LIABILITY FOR ANY LOSS, DAMAGE, COSTS OR EXPENSES UNDER OR IN CONNECTION WITH THIS AGREEMENT, HOWSOEVER ARISING, INCLUDING WITHOUT LIMITATION, LOSS, DAMAGE, COSTS OR EXPENSES CAUSED BY BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, BREACH OF STATUTORY OR ANY OTHER DUTY SHALL IN NO CIRCUMSTANCES EXCEED THE TOTAL DOLLAR AMOUNT OF THE AGREEMENT. NEITHER PARTY SHALL BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF DATA, LOSS OF USE OR ANY OTHER INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL LOSS OR DAMAGE WHATSOEVER, HOWSOEVER ARISING, INCURRED BY THE OTHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT, NEGLIGENCE OR OTHER TORT, EVEN IF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. Confidential Information.

13.1. Each Party shall treat the other Party's Confidential Information as confidential within their respective organizations and each Party shall be given the ability to defend the confidentiality of its Confidential Information to the maximum extent allowable under the law prior to disclosure by the other Party of such Confidential Information. Any specific information that Liberty Vote claims to be confidential must be clearly marked or identified as such by Liberty Vote. To the extent consistent with PRL, Customer shall maintain the confidentiality of all such information marked by Liberty Vote as confidential.

13.2. Subject to the requirements of the Customer's public record laws ("PRL"), neither Party shall disclose the other Party's Confidential Information to any person outside their respective organizations unless disclosure is made in response to, or because of, an obligation to any federal, state, or local governmental agency or court with appropriate jurisdiction, or to any person properly seeking discovery before any such agency or court. If a request is made to view such Confidential Information, Customer will notify Liberty Vote of such request and the date the information will be released to the requestor unless Liberty Vote obtains a court order enjoining such disclosure. If Liberty Vote fails to

obtain such court order enjoining such disclosure, the Customer will release the requested information on the date specified. Such release shall be deemed to have been made with Liberty Vote's consent and shall not be deemed to be a violation of law or this Agreement.

- 14. Assignment.** Neither Party may assign its rights, obligations, or interests in this Agreement without the written consent of the other Party, providing however that Liberty Vote may assign the proceeds of this Agreement to a financial institution without prior consent of the Customer but with written notice to Customer.
- 15. Termination.** In the event either Party violates any provisions of this Agreement, the non-violating Party may serve written notice upon the violating Party identifying the violation and a providing a reasonable cure period. Except as otherwise noted herein, such cure period shall be at least thirty (30) days. In the event the violating Party has not remedied the infraction at the end of the cure period, the non-violating Party may serve written notice upon the violating Party of termination, and seek legal remedies for breach of contract as allowed hereunder. If the breach identified in the notice cannot be completely cured within the specified time period, no default shall occur if the Party receiving the notice begins curative action within the specified time period and thereafter proceeds with reasonable good faith diligence to cure the breach as soon as practicable.
- 16. Legality and Severability.** This Agreement and the Parties' actions under this Agreement shall comply with all applicable federal, state and local laws, ordinances, rules, regulations, court orders, and applicable governmental agency orders. If any term or provision of this Agreement is held to be illegal or unenforceable, the remainder of this Agreement shall not be affected thereby and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. The Parties agree that any court reviewing this Agreement shall reform any illegal or unenforceable provision to carry out the express intent of the parties as set forth herein to the fullest extent permitted by law.
- 17. Survival.** The provisions of Sections 2, 10, 11, 12, 13, 16, 18, and 19 shall survive the expiration or termination of this Agreement.
- 18. Choice of Law.** Interpretation of this Agreement shall be governed by the laws of the State of California, and the courts of competent jurisdiction located in the Customer's State will have jurisdiction to hear and determine questions relating to this Agreement.
- 19. Waiver.** Any failure of a Party to assert any right under this Agreement shall not constitute a waiver or a termination of that right or any provisions of this Agreement.
- 20. Third-Party Beneficiary.** No person shall be a third-party beneficiary pursuant to this Agreement. No obligation of Liberty Vote or Customer may be enforced against Liberty Vote or Customer, as applicable, by any person not a party to this Agreement.
- 21. Independent Contractor.** Liberty Vote and its agents and employees are independent contractors performing professional services for the Customer and are not employees of the

Customer. Liberty Vote and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of Customer vehicles, or any other benefits afforded to employees of the Customer as a result of this Agreement. Liberty Vote acknowledges that all sums received hereunder are personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

22. Entire Agreement. This Agreement and its Exhibits incorporated herein by reference constitute the entire agreement, understanding and representations between Liberty Vote and the Customer, and supersede and replace all prior agreements, written or oral. No modifications or representations to the Agreement shall be valid unless made in writing and signed by duly authorized representatives of both the Customer and Liberty Vote, and incorporated as an Addendum hereto.

23. Notices. All notices required or permitted to be given hereunder shall be given in writing and shall be deemed to have been given when personally delivered or by nationally recognized overnight carrier or mailed, certified or registered mail, e-mail, addressed to the intended recipient as follows:

If to Liberty Vote:

Liberty Vote USA Inc.
Attn: Contracts Administrator
PO Box 40005
Denver, CO 80204
E-mail: contracts@LibertyVotevoting.com

If to the customer

Napa County, CA:
Attn: John Tuteur, Registrar of Voters
1125 3rd Street, First Floor
Napa, CA 94559
e-mail: john.tuteur@countyofnapa.org

24. Supersede: This Agreement supersedes Agreement No. 190125B and its amendments, which are terminated with the Effective Date of this Agreement.

Signatures on following page.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date.

LIBERTY VOTE USA INC.



AUTHORIZED
SIGNATURE

Lindsey Kurtz

PRINTED NAME

General Counsel

TITLE

3/9/2026

DATE

**NAPA COUNTY, a political subdivision of the State
of California**

By:

AMBER MANFREE, Chair of the Board of
Supervisors

APPROVED AS TO FORM Office of County Counsel By: S. Darbinian Deputy County Counsel Date: 3/4/26	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: _____ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By: _____
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EXHIBIT A

VOTING SYSTEM AND MANAGED SERVICES AGREEMENT
BY AND BETWEEN LIBERTY VOTE USA INC.
AND NAPA COUNTY, CA

PRICING SUMMARY AND DELIVERABLES DESCRIPTION

1. **Pricing and Deliverables Summary.** Any other services, consumables, products, or differing quantities not specifically identified in this Agreement may be available for purchase by the Customer at the current list price, subject to availability. System components are subject to change dependent upon availability. An equivalent or superior component model, certified for use by the Customer's state, may be substituted by Liberty Vote.

DESCRIPTION	QTY
In-Person Voting: Polling Location Hardware	
ImageCast® X – BMD (Ballot Marking Device Printer Kit - HP4001 + Extender Tray)	70
ImageCast® X Voter Activation Stations	14
ImageCast® X Voting Smart Cards	50
ImageCast® X Pollworker Smart Cards	15
8GB USB Flash Drive	5
UPS SMT 1500 980 watts, input 120/output 120, interface DD-9RS-232	13
Mobile Ballot Printing (MBP) System with Oki Data C331DN Printer Kit	11
Mobile Ballot Printing (MBP) System with Lexmark 730 Printer Kit	1
Central Scanning: Absentee / Vote By Mail Hardware	
Workstation - Precision	2
ImageCast Central Scanner Kits	2
Accessories & Consumables	
Transport Bag Kit - 1 BMD Printer & 1 Ext Tray Sleeve	70
Audio Tactile Interface Kit (ATI) - ICX - USB	70
ImageCast Voting Booth - Standard	70
Image Drum, black & color	2
Toner Cartridge, Black, Cyan, Magenta, Yellow	4
Image Cast X Classic Voter Activation Cards	100
Election Management Hardware	
Election Management System (EMS) Standard Server Kit	2

EMS Client Workstation Kit	3
EMS Adjudication Workstation Kit	2
Network Cables CAT6 UTP Patch Cables (12 Units)	1
EMS Report Printer	1
Digi Connect LTS 16 port	1
Support Services and Training	
On-Site Services - Non-Election Day (/day)	7
System Acceptance Testing Training (provided before First Amendment Effective Date)	1
ICX Operator Training (provided prior to First Amendment Effective Date)	1
Pollworker Train the Trainer (provided prior to Effective Date)	1
Ballot Setup (7 elections, 2026 Primary & General, 2028 - Primary & General, 2030 – Primary & General, 2032 – Primary	7
On-Site Election Day Technical Support (7 elections Primary & General, 2028 -Primary & General, 2030 – Primary & General, 2032 – Primary, Arrive Monday afternoon, on-site Tuesday, Depart Wednesday morning)	7
On-Site Non-Election Day Support, 14 days - Saturday & Sunday before election Support begins for Primary & General 2028, Primary & General 2030, Primary 2032	14
On-Site 1 Non Election Day Service 2025 (Installation)	1
Software Licenses and Hardware Warranties	
Democracy Suite Software License	1
ImageCast Adjudication Software License	1
Mobile Ballot Printing Software License	1
ImageCast Remote UOCAVA/RAVBM Application	1
ImageCast X Software/Firmware License	70
Mobile Ballot Printer Warranty	12
ImageCast X Warranty	70

1.1 **Pricing Summary.** The Customer has selected the managed services option, instead of an outright purchase.

1.2 **Payment Summary.** The following is the invoicing schedule for the annual Customer payments. The Customer shall pay invoices in a timely manner and no later than thirty (30) calendar days from receipt of a Liberty Vote invoice. All payments shall be made in U.S. Dollars. Prices include shipping.

1.3

Year	Period Beginning	Period Ending	Invoice Date	Amount	Tax Amount	Total
1	07/01/2025	06/30/2026	07/01/2025	\$148,092.56	\$8,159.07	\$156,251.63

2	07/01/2026	06/30/2027	07/01/2026	\$152,534.94	\$8,503.35	\$161,038.29
3	07/01/2027	06/30/2028	07/01/2027	\$157,111.40	\$8,858.03	\$165,969.43
4	07/01/2028	06/30/2029	07/01/2028	\$161,824.58	\$9,223.30	\$171,047.88
5	07/01/2029	06/30/2030	07/01/2029	\$166,678.78	\$9,599.50	\$176,278.28
6	07/01/2030	06/30/2031	07/01/2030	\$171,679.34	\$9,987.04	\$181,666.38
7	07/01/2031	06/30/2032	07/01/2031	\$176,829.58	\$10,386.18	\$187,215.76

2. **Product Description**

2.1 ***Product description***

- **Election Definition Setup.** Election setup services and support for the election database creation and ballot review. Ballot definition services will be provided in English and Spanish only and will include the following: Democracy Suite Election project setup, including Ballot PDF artwork, provide audio setup for audio voting using a synthesizer. Any outside recording charges would be at the Customer's expense. Any additional languages requested by Customer will be provided at the Customer's expense.
 - For election definition setup services as described herein, the Customer shall review and approve or identify issues to all Liberty Vote deliverables related to such service within two (2) business days of receipt by the Customer. In the event the Customer discovers an issue, it shall provide written notice to Liberty Vote immediately following the discovery of any issue and Liberty Vote shall rectify the issue at no additional cost to the Customer. In the event the Customer approves the deliverable and subsequent to such approval, request that a change be made to the deliverable, then Liberty Vote may provide the change at an additional cost based upon Liberty Vote's then current published service rates.

EMS Client Workstation Kit.

- 2.2 ***Ongoing telephone support.*** Telephone support shall be available for Customers during the Term of the Agreement at no additional costs.
- 2.3 ***Travel and Expenses included.*** All costs of Liberty Vote transportation, lodging and meal expenses are included during the Agreement Term.
- 2.4 ***Other Services, Consumables or Equipment.*** Any other services, consumables or equipment not specifically identified in this Agreement are available for purchase by the Customer at the then current Liberty Vote list price.

EXHIBIT B
SOFTWARE LICENSE AND HARDWARE WARRANTY TERMS

1. Definitions.

- 1.1. “Hardware” means the ImageCast® system defined in the Agreement.
- 1.2. “Party” or “Parties” refer to Liberty Vote and Customer, individually or collectively.
- 1.3. “Software” means the Democracy Suite® and ImageCast® software licensed by Liberty Vote hereunder, in object code form, including related documentation provide to the Customer.
- 1.4. “Specifications” means descriptions and data regarding the features, functions and performance of the Software and Hardware, as set forth in user manuals or other applicable documentation provided by Liberty Vote.

2. License.

- 2.1. License to Software. Subject to the terms herein and subject to payment by the Customer of the License fees as described in the Agreement, Liberty Vote grants Customer a non-exclusive, non-transferrable license to use the Software solely for the Customer’s own internal business purposes and solely in conjunction with the Software and Hardware. This License shall only be effective during the Term and cannot be transferred or sublicensed.
- 2.2. Third-Party Products. When applicable, Liberty Vote agrees to sublicense any software that constitutes or is contained in Third-Party Products, in object code form only, to Customer for use during the Term. This sublicense is conditioned on Customer’s continued compliance with the terms and conditions of the end-user licenses contained on or in the media on which such software is provided.
- 2.3. No Other Licenses. Other than as expressly set forth in this Agreement, (a) Liberty Vote grants no licenses, expressly or by implication, and (b) Liberty Vote’s entering into and performing the Agreement will not be deemed to license or assign any intellectual property rights of Liberty Vote to Customer or any third party. Without limiting the foregoing sentence, Customer agrees not to use the Software as a service bureau for elections outside the Customer’s jurisdiction and agrees not to reverse engineer or otherwise attempt to derive the source code of any Software. The Customer shall have no power to transfer or grant sub-licenses for the Software. Any use of the Software not expressly permitted by the terms of this Agreement is strictly prohibited.

3. Upgrades and Certification. During the Term, Liberty Vote shall provide upgrades to Customer under the following conditions.

- 3.1. Upgrades. In the event that Liberty Vote, at its sole discretion, certifies a Software upgrade under the applicable laws and regulations of the Customer’s State, Liberty Vote shall make the certified Software upgrade available to the Customer at no additional cost.

3.2. **Certification Requirement.** Notwithstanding any other terms herein, Liberty Vote shall not provide, and shall not be obligated to provide, any upgrade or other software update that has not been certified under the applicable provisions of the election laws and regulations of the Customer's State.

4. **Prohibited Acts.** The Customer shall not, without the prior written permission of Liberty Vote:

4.1. Transfer or copy onto any other storage device or hardware or otherwise copy the Software in whole or in part except for purposes of system backup;

4.2. Reverse engineer, disassemble, decompile, decipher or analyze the Software in whole or in part;

4.3. Alter or modify the Software or copyright notices in any way or prepare any derivative works of the Software or any part of parts of the Software;

4.4. Alter, remove or obstruct any copyright or proprietary notices from the Software, or fail to reproduce the same on any lawful copies of the Software;

4.5. Provide or transfer any Software or System component to any third party unless explicitly authorized in writing by Liberty Vote. Providing or transferring any Software or Hardware to any third party shall be considered a breach of the Agreement and Software License.

5. **Return of Software.** Upon termination or expiration of this Agreement, Customer shall (i) forthwith return to Liberty Vote all Software in its possession or control, or destroy all such Software from any electronic media, and certify in writing to Liberty Vote that it has been destroyed.

6. **Warranties.** The following warranties shall apply.

6.1. **Software Warranty Terms.** Liberty Vote warrants that the Software will function substantially in accordance with the Specification during the Term. The Liberty Vote also warrants that the Software shall comply with the Customer's State certification requirements and election laws (collectively the "Requirements") in effect as of the date the Software is certified by the Customer's State. This provision applies to the initially installed Software as well as any subsequent upgrades pursuant to Section 3 herein. However, Liberty Vote will not be required to make modifications to the Software or System as a result of changes in the Requirements. The foregoing warranty will be void in the event of the Software (i) having been modified by any party other than Liberty Vote or (ii) having been used by the Customer for purposes other than those for which the Software was designed by Liberty Vote. If Liberty Vote establishes that the reported material failure is not covered by the foregoing warranty, the Customer shall be responsible for the costs of Liberty Vote's investigative work at Liberty Vote's then current rates.

6.1.1. **Corrections.** If the Customer believes that the Software is not functioning substantially in accordance with the Specifications or Requirements, the Customer shall provide Liberty Vote with written notice of the material failure within thirty (30) days of discovering the material failure, provided that the Customer can reproduce the material failure to Liberty Vote. Liberty Vote shall correct the

deficiencies, at no additional cost and incorporate such corrections into the next version certified by the Customer's State.

6.1.2. Third-Party Software. The warranties herein do not apply to any Third-Party Software. However, to the extent permitted by the manufacturers of Third-Party Software, Liberty Vote shall pass through to Customer all warranties from the manufacturers regarding the operation of such Third-Party Software.

6.3. Hardware Warranty Terms. Liberty Vote warrants that when used with the hardware and software configuration purchased through or approved by Liberty Vote, each component of Hardware will be free of defects that would prevent the Hardware from operating in conformity in all material respects with its Specifications. The Hardware Warranty shall remain in effect until one year after Hardware acceptance.

6.4. Hardware Warranty Services. If any Hardware component fails to operate in conformity with its specifications during the warranty period, Liberty Vote shall provide a replacement for the Hardware component or, at Liberty Vote's sole option, shall repair the Hardware component, so long as the Hardware is operated with its designated Software and with third party products approved by Liberty Vote for use with the Hardware. The following conditions apply to the Hardware warranty:

- 6.4.1. Customer shall bear the shipping costs to return the malfunctioning Hardware component to Liberty Vote, and Liberty Vote shall bear the costs for shipping the repaired or replaced Hardware component to Customer.
- 6.4.2. The following services are not covered by this Agreement, but may be available at Liberty Vote's current time and material rates:
 - 6.4.2.1. Replacement of consumable items including but not limited to batteries, paper rolls, toner, ribbons, seals, smart cards, and removable memory devices, scanner rollers, disks, etc.;
 - 6.4.2.2. Repair or replacement of Hardware damaged by of accident, disaster, theft, vandalism, neglect, abuse, or any improper use;
 - 6.4.2.3. Repair or replacement of Hardware modified by any person other than those authorized in writing by Liberty Vote;
 - 6.4.2.4. Repair or replacement of Hardware from which the serial numbers have been removed, defaced or changed.
- 6.4.3 Customer is not authorized to provide or transfer any Hardware or System component to a third party unless explicitly authorized in writing by Liberty Vote. Providing or transferring Hardware will void the terms of the Warranty and shall be considered a breach to the Agreement.

6.5. No Other Warranties. LIBERTY VOTE DISCLAIMS ALL OTHER WARRANTIES, AND REPRESENTATIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

EXHIBIT C INSURANCE REQUIREMENTS

C.1 Workers Compensation Insurance. To the extent required by law during the term of this Agreement, Liberty Vote ("Consultant") shall provide workers compensation insurance for the performance of any of Consultant's duties under this Agreement as required by the State of California with statutory limits, and employer's liability insurance with a limit of no less than TWO MILLION DOLLARS (\$2,000,000) per accident for bodily injury or disease, all with a waiver of subrogation. Consultant shall provide County with certification of all such coverages upon request by Customer's ("County's") Risk Manager.

C.2 Liability Insurance. Consultant shall obtain and maintain in full force and effect during the term of this Agreement the following occurrence-based liability insurance coverages, issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better, or equivalent self-insurance:

C.2.1 General Liability. Commercial general liability (CGL) insurance coverage (personal injury and property damage) of not less than TWO MILLION DOLLARS (\$2,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of Consultant or any officer, agent, or employee of Consultant under this Agreement. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

C.2.2 Professional Liability/Errors and Omissions. Professional liability (or errors and omissions) insurance for all activities of Consultant arising out of or in connection with this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000) per claim. If the coverage includes an aggregate limit the aggregate limit shall be no less than twice the per occurrence limit.

C.2.3 Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with Consultant's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. Coverage shall be business auto insurance coverage using Insurance Services Office (ISO) form number CA 0001 06 92 including symbol 1 (any Auto) or the exact equivalent. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the General Liability Insurance described in paragraph C.2.1, above. If Consultant or Consultant's employees, officers, or agents will use personal automobiles in any way in the performance of this Agreement, Consultant shall provide evidence of personal auto liability coverage for each such person upon request.

C.2.4. Cyber Liability Insurance. Consultant shall maintain 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 Liberty Vote 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.

C.3 Certificates of Coverage. All insurance coverages referenced in paragraph C.2, above, shall be evidenced by one or more certificates of coverage or, with the consent of County's Risk Manager, demonstrated by other evidence of coverage acceptable to County's Risk Manager, which shall be filed by Consultant with the County Department administering this Agreement prior to commencement of the Scope of Services.

C.3.1 Notice of Cancellation. The certificate(s) or other evidence of coverage shall reference this Agreement by its County number or title and department; shall be kept current during the term of this Agreement; shall provide that County shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium.

C.3.2 Multiple Insureds. The certificate(s) shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.

C.3.3 Waiver of Subrogation and Additional Insured Endorsements. For the commercial general liability insurance coverage referenced in subparagraph C.2.1 and, for the comprehensive automobile liability insurance coverage referenced in subparagraph C.2.3 where the vehicles are covered by a commercial policy rather than a personal policy, Consultant shall also file with the evidence of coverage an endorsement from the insurance provider naming Napa County, its officers, employees, agents, and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, Consultant shall file an endorsement waiving subrogation with the evidence of coverage.

C.3.4 Additional Requirements. The certificate or other evidence of coverage shall provide that if the same policy applies to activities of Consultant not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of County shall pertain only to liability for activities of Consultant under this Agreement, and that the insurance provided is primary coverage to County with respect to any insurance or self-insurance programs maintained by County. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94.

C.4 Copies of Policies. Upon request by County's Risk Manager, Consultant shall provide or arrange for the insurer to provide within thirty (30) days of the request, certified copies of the actual insurance policies or relevant portions thereof.

C.5 Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by County's Risk Manager, which approval shall not be denied unless the County's Risk Manager determines that the deductibles or self-insured retentions are unreasonably large in relation to compensation payable under this Agreement and the risks of liability associated with the activities required of Consultant by this Agreement. At the option of and upon request by County's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects County, its officers, employees, agents, and volunteers or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.