

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: March 29, 2022
PUBLIC HEARING DATE: Not Applicable

CONTACT PERSON(S) NAME AND PHONE NUMBER:

Gregory K. Allen, Chief of Police, El Paso Police Department (915) 212-4305
Claudia A. Garcia, Interim Director of Purchasing & Strategic Sourcing, (915) 212-1218

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: No. 2 - Set the Standard for a Safe and Secure City

SUBGOAL: 2.1 Maintain standing as one of the nation's top safest cities

SUBJECT:

Discussion and action on the request that the Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order (s) to Idemia Identity & Security USA LLC the sole source provider for the 2022-0487 Maintenance and Support for Multi-Biometric Identification System for a term of seven (7) years for an estimated amount of \$1,516,848.03, with the stipulation that the vendor provides an updated sole source letter and affidavit each year.

BACKGROUND / DISCUSSION:

This contract will allow for the maintenance and support for Multi-Biometric Identification System. This service will support the Police Department in solving crime and identifying offenders based on fingerprint identifications.

SELECTION SUMMARY:

NA

CONTRACT VARIANCE:

No contract variance

PROTEST

No protest received for this requirement.

PRIOR COUNCIL ACTION:

On March 17, 2020 City Council approved the award of contract 2020-617 to Morpho USA, Inc. dba Idemia Identity & Security USA LLC for the automated fingerprint identification system (AFIS) for at total amount of \$1,300,000.00.

AMOUNT AND SOURCE OF FUNDING:

Amount: \$1,516,848.03

Funding Source: General Fund - IT - Citywide Contracts Division

Account: 239-1000-15240-P1506-522020

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? YES NO

PRIMARY DEPARTMENT: El Paso Police Department

SECONDARY DEPARTMENT: Purchasing & Strategic Sourcing

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

for A/C Victor Zarur #1515 

Gregory K. Allen, Chief of Police, El Paso Police Department

**COUNCIL PROJECT FORM
(SOLE SOURCE)**

*******POSTING LANGUAGE BELOW*******

Please place the following item on the **REGULAR** agenda for the Council Meeting of **March 29, 2022**.

Strategic Goal 2: Set the Standard for a Safe and Secure City

The linkage to the Strategic Plan is subsection: 2.1 – Maintain standing as one of the nation’s top safest cities

Award Summary:

Discussion and action on the request that the Director of the Purchasing & Strategic Sourcing Department be authorized to issue a Purchase Order (s) to Morpho USA, Inc., dba Idemia Identity & Security USA LLC the sole source provider for the 2022-0487 Maintenance and Support for Multi-Biometric Identification System for a term of seven (7) years for an estimated amount of \$1,516,848.03, with the stipulation that the vendor provides an updated sole source letter and affidavit each year.

Contract Variance:

No contract variance

Department:	El Paso Police Department
Award to:	Morpho USA Inc., dba Idemia Identity & Security USA LLC Anaheim, CA
Initial Term:	7 years
Year 1:	\$186,299.00
Year 2:	\$195,613.95
Year 3:	\$205,394.65
Year 4:	\$215,664.38
Year 5:	\$226,447.60
Year 6:	\$237,769.98
Year 7:	\$249,658.48
Total Estimated Award:	\$1,516,848.03 (7 years)
Account No.:	239-1000-15240-P1506-522020
Funding Source:	General Fund - IT - Citywide Contracts Division
Districts(s):	All
Sole Source No.:	2022-0487

This is a Sole source, service contract.

*******ADDITIONAL INFO BELOW*******



5515 E. La Palma Ave., Suite 100
Anaheim, CA 92807
Tel: (714) 238-2000
Fax: (714) 238-2049

February 8, 2022

Bruce Orndorf
City of El Paso
911 N. Raynor
El Paso, TX 79903
OrndorfBW@elpasotexas.gov
(915) 564-7224

RE: Sole Source

Dear Bruce Orndorf,

Idemia Identity & Security USA LLC is the leader in Automated Fingerprint Identification Systems Worldwide. Our equipment is manufactured and integrated at 5515 E. La Palma Ave. Suite 100, Anaheim, CA 92807.

By nature of the proprietary hardware and software components and the overall system design, there are currently no other companies authorized to perform maintenance services on our systems.

Thank you for your continued support of IDEMIA. We look forward to a long partnership with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Casey Mayfield".

Casey Mayfield
Vice President
Idemia Identity & Security USA LLC



PURCHASING & STRATEGIC SOURCING DEPARTMENT

SOLE SOURCE AFFIDAVIT

THIS IS AN OFFICIAL PURCHASING DOCUMENT-RETAIN WITH PURCHASE ORDER FILE

Before me, the undersigned official, on this day, personally appeared _____ a person known to me to be the person whose signature appears below, whom after being duly sworn upon his/her oath deposed and said:

1. My name is Casey Mayfield. I am over the age of 18, have never been of a convicted crime and am competent to make this affidavit.
2. I am an authorized representative of the following company or firm: Idemia Identity & Security USA LLC
3. The above named company or firm is the sole source for the following item(s), product(s) or service(s):
Maintenance and Support of AFIS Backend, Livescan, Workstation, and MorphoIDent equipment
4. Competition in providing the above named item(s) product(s), service(s) is precluded by the existence of a patent, copyright, secret process or monopoly as stated under Section 252.022, Subchapter A of the Local Governmental Code 7A or as provided for under 7B-F of the same section. Also, attached hereto is a sole source letter, which sets forth the reasons why this Vendor is a sole source provider (dated and signed).
5. There is/are no other like item(s) or product(s) available for purchase that would serve the same purpose or function.
6. **Note: This Vendor understands that by providing false information on this Sole Source Affidavit, it may be considered a non-responsible Vendor on this and future purchases and may result in discontinuation of any/all business with the City of El Paso.**

Signature

Casey Mayfield

SUBSCRIBED AND SWORN to before me on this

8th

day of

February, 2022



NOTARY PUBLIC

PRINTED NAME

MY COMMISSION EXPIRES

Margy J. Spivey

8-7-2023

COMPANY NAME: Idemia Identity & Security USA LLC

ADDRESS, CITY, STATE & ZIP CODE: 5515 E. La Palma Ave, Suite 100, Anaheim, CA 92807

PHONE: 714-238-2000

FAX NUMBER: _____

CONTACT NAME AND TITLE: Matthew Hunter - Program Manager, Casey Mayfield - Vice President, Kimberly Dullinger - Maintenance Contract Rep

WEB ADDRESS: www.idemia.com

EMAIL: matthew.hunter@us.idemia.com or kimberly.dullinger@us.idemia.com

FEDERAL TAX ID NUMBER: 04-3320515

TEXAS SALES TAX NUMBER: _____



5515 East La Palma Ave., Suite 100
Anaheim, CA 92807
Tel: (714) 238-2000
Fax: (714) 238-2049

March 4, 2022

City of El Paso
Claudia A. Garcia
300 N. Campbell St.
El Paso, Texas 79901

RE: Maintenance and Support Agreement # 004500-006

By means of this letter, Idemia Identity & Security USA LLC ("IDEMIA" or "Seller") hereby extends **City of El Paso** Maintenance and Support Agreement for the period **April 1, 2022** through **March 31, 2029** per the Terms and Conditions below.

Please indicate acceptance of this extension by signing in the acceptance block below and returning it to my attention via Email at kimberly.dullinger@us.idemia.com at your soonest convenience.

If you have any questions or need further clarification, please contact me at (714) 632-2180 or e-mail kimberly.dullinger@idemia.com. Thank you in advance.

Thank you,

Kimberly J. Dullinger
Maintenance Agreement Specialist
Idemia Identity & Security USA LLC

Accepted by:

IDEMIA IDENTITY & SECURITY USA LLC

CITY OF EL PASO

Signed by:  _____

Signed by: _____

Printed Name: Casey Mayfield

Printed Name: _____

Title: Vice President

Title: _____

Date: March 4, 2022

Date: _____

Please note this is not an invoice. An invoice will be provided after receipt of the signed document or purchase order.

Description of Covered Products

MAINTENANCE AND SUPPORT AGREEMENT NO. SA # 004500-006

CUSTOMER: City of El Paso

The following table lists the Products under maintenance coverage:

Product	Description	Node	Qty
AFIS Backend			
WAS	<i>Workflow Administration Services (WAS) & MBIS Archive Server (MAS)</i>	EPPD-WAS-P-101	1
DES	<i>Data Exchange Services (DES) includes the following interfaces:</i> <ul style="list-style-type: none"> • <i>LSS – Livescan to MBISS also handles 2FID</i> • <i>Mobile – To/From mobile devices</i> • <i>TXDPS – Submission to TXDPS/FBI RISC</i> • <i>MAS – Submission from MBIS to MAS</i> 	EPPD-DES-P-101	1
WDC	<i>Windows Domain Controller</i>	EPPD-WDC-P-101	1
ADS	<i>Advanced Data Server (ADS) w/ Oracle SQL Server</i>	EPPD-DBO-P-101	1
BUS	<i>Backup Server (including Jukebox tape drives)</i>	EPPD-BUS-P-101	1
DC	<i>MBSS Data Controller</i>	EPPD-DC-P-101	1
MBSS	<i>MBSS Matcher 01</i>	EPPD-MAT-P-101	1
MBSS	<i>MBSS Matcher 02</i>	EPPD-MAT-P-102	1
Test	<i>On Prem Test System</i>	EPPD-DBO-T-101 EPPD-WAS-T-101	2
LOG	<i>MBIS Centralized Log Server/Repository</i>	EPPD-LOG-P-101	1
VMC	<i>VMWare VM Center (Centralized VM Controller)</i>	EPPD-VMC-P-101	1
VMH	<i>Physical VM Host Servers - HP DL360 (VMWare ESXi VM Hosts)</i>	EPPDESXiSrv01 EPPDESXiSrv02 EPPDESXiSrv03	3
SAN	<i>Storage Area Network Device - HPE MSA SAN 2050 - Oracle Database & VM Disks (VMDKs) Physical Storage</i>	EPPD-SAN-P-101	1
FSW	<i>Fiber Switch – Provided backend MBIS interconnectivity – HPE ES – 12F</i>	EPPD-FSW-P-101	1
Other			
Workstations	<i>MorphoBIS Multimodal Expert Workstation</i>	EPPDLEW001 EPPDLEW002 EPPDLEW003 EPPDLEW004 EPPDLEW005 EPPDLEW006 EPPDLEW007 EPPDLEW008	8

LiveScans	<i>MBIS connected TPE Livescans</i>	EPPDLSCRA01 EPPDLSHQ01 EPPDLSJPD01 EPPDLSMVA01 EPPDLSMVJ01 EPPDLSNEA01 EPPDLSNEJ01 EPPDLSNEWI EPPDLSPHA01 EPPDLSWSJ01 EPPDLSPHJ01 EPPDLSWSA01 EPPDLSHQ02 (Under Warranty) EPPDLSHQ03 (Under Warranty)	14
S&F	<i>Store & Forward</i>	EPPDAWSJPD	1
Printer	<i>Color Printer</i>	EPPDPRT01	1
Printer	<i>Printer MS810 w/ 2 extra trays</i>	EPPDPRT02	1
Mobile ID System	<i>MorphoDent Solution*</i>	N/A	N/A

**All MorphoDent units purchased solely by the El Paso Police Department will automatically fall under any maintenance support agreement in place between the two parties, and shall cause no change to the Annual Support Fee.*

Support Plan Options and Pricing Worksheet

Maintenance and Support Agreement # 004500-006

Date March 4, 2022

New Term Effective Start April 1, 2022

End March 31, 2029

STANDARD SUPPORT

Advantage – Software Support

- ◆ Telephone Response: 2 Hour ◆ Standard Releases & Updates ◆ Supplemental Releases & Updates
- ◆ Remote Dial-In Analysis ◆ Software Customer Alert Bulletins ◆ 8 a.m. – 5 p.m. Monday to Friday PPM
- ◆ Unlimited Telephone Support ◆ Automatic Call Escalation

On-Site Hardware Support

- ◆ 8 a.m. – 5 p.m. Monday to Friday PPM ◆ Defective Parts Replacement ◆ Hardware Service Reporting
- ◆ Next Day PPM On-site Response ◆ Escalation Support ◆ Product Repair
- ◆ Hardware Vendor Liaison ◆ Hardware Customer Alert Bulletins ◆ Equipment Inventory Detail Management

Parts Support

- ◆ Parts Ordered & Shipped Next Business Day ◆ Parts Customer Alert Bulletins
- * If customer is providing their own on-site hardware support, the following applies:*
- Customer Orders & Replaces Parts ➢ Telephone Technical Support for Parts Replacement Available

ADDITIONAL OPTIONS

Users Conference Attendance (\$3,950 per Attendee) Year: 2022-2028 Number Attendees Requested 2 Per Year

Included in Registration Fee:

- Conference Registration
- Attendee package upon arrival
- All sessions and training listed on the agenda
- Social events listed on the agenda
- Meals and breaks listed on the agenda
- Hotel room from Monday arrival through Friday morning checkout
- Round trip air travel
- Ground transportation between the conference airport and the conference hotel

Not included in Registration Fee:

- Transportation fee to/from your home town airport
- Airport parking fees in your home town
- Meals during your travel
- Meals outside those included in the conference
- Airline baggage fees
- In-room expenses such as pay-per-view, mini-bar, room service, and any other hotel incidentals
- Extra days before or after the conference

Included

	Year 1: 22-23 Term	\$186,299.00
	Option Year 2: 23-24 Term	\$195,613.95
	Option Year 3: 24-25 Term	\$205,394.65
	Option Year 4: 25-26 Term	\$215,664.38
	Option Year 5: 26-27 Term	\$226,447.60
	Option Year 6: 27-28 Term	\$237,769.98
	Option Year 7: 28-29 Term	\$249,658.48
	GRAND TOTAL	\$1,516,848.03
	<small>*Exclusive of taxes if applicable</small>	

Maintenance and Support Agreement - Number SA # 004500-006

This Support Plan is a Statement of Work that provides a description of the support to be performed.

1. **Services Provided.** The Services provided are based on the Severity Levels as defined herein. Each Severity Level defines the actions that will be taken by Seller for Response Time, Target Resolution Time, and Resolution Procedure for reported errors. Because of the urgency involved, Response Times for Severity Levels 1 and 2 are based upon voice contact by Customer, as opposed to written contact by facsimile or letter. Resolution Procedures are based upon Seller's procedures for Service as described below.

Severity Level	Definition	Response Time	Target Resolution Time
1	Total System Failure - occurs when the System is not functioning and there is no workaround; such as a Central Server is down or when the workflow of an entire agency is not functioning.	Telephone conference within 1 hour of initial voice notification	Resolve within 24 hours of initial notification
2	Critical Failure - Critical process failure occurs when a crucial element in the System that does not prohibit continuance of basic operations is not functioning and there is usually no suitable work-around. Note that this may not be applicable to intermittent problems.	Telephone conference within 3 Standard Business Hours of initial voice notification	Resolve within 7 Standard Business Days of initial notification
3	Non-Critical Failure - Non-Critical part or component failure occurs when a System component is not functioning, but the System is still useable for its intended purpose, or there is a reasonable workaround.	Telephone conference within 6 Standard Business Hours of initial notification	Resolve within 180 days in a Seller-determined Patch or Release.
4	Inconvenience - An inconvenience occurs when System causes a minor disruption in the way tasks are performed but does not stop workflow.	Telephone conference within 2 Standard Business Days of initial notification	At Seller's discretion, may be in a future Release.
5	Customer request for an enhancement to System functionality is the responsibility of Seller's Product Management.	Determined by Seller's Product Management.	If accepted by Seller's Product Management, a release date will be provided with a fee schedule, when appropriate.

1.1 **Reporting a Problem.** Customer shall assign an initial Severity Level for each error reported, either verbally or in writing, based upon the definitions listed above. Because of the urgency involved, Severity Level 1 or 2 problems must be reported verbally to the Seller's call intake center. Seller will notify the Customer if Seller makes any changes in Severity Level (up or down) of any Customer-reported problem.

1.2 **Seller Response.** Seller will use best efforts to provide Customer with a resolution within the appropriate Target Resolution Time and in accordance with the assigned Severity Level when Customer allows timely access to the System and Seller diagnostics indicate that a Residual Error is present in the Software. Target Resolution Times may not apply if an error cannot be reproduced on a regular basis on either Seller's or Customer's Systems. Should Customer report an error that Seller cannot reproduce, Seller may enable a detail error capture/logging process to monitor the System. If Seller is unable to correct the reported Residual Error within the specified Target Resolution Time, Seller will escalate its procedure and assign such personnel or designee to correct such Residual Error promptly. Should Seller, in its sole discretion, determine that such Residual Error is not present in its Release, Seller will verify: (a) the Software operates in conformity to the System Specifications, (b) the Software is being used in a manner for which it was intended or designed, and (c) the Software is used only with approved hardware or software. The Target Resolution Time shall not commence until such time as the verification procedures are completed.

1.3 **Error Correction Status Report.** Seller will provide verbal status reports on Severity Level 1 and 2 Residual Errors. Written status reports on outstanding Residual Errors will be provided to System Administrator on a monthly basis.

2. **Customer Responsibility.**

2.1 Customer is responsible for running any installed anti-virus software.

2.2 **Operating System ("OS") Upgrades.** Unless otherwise stated herein, Customer is responsible for any OS upgrades to its System. Before installing any OS upgrade, Customer should contact Seller to verify that a given OS upgrade is appropriate.

3. **Seller Responsibility.**

3.1 **Anti-virus software.** At Customer's request, Seller will make every reasonable effort to test and verify specific anti-virus, anti-worm, or anti-hacker patches against a replication of Customer's application. Seller will respond to any reported problem as an escalated support call.

3.2 **Customer Notifications.** Seller shall provide access to (a) Field Changes; (b) Customer Alert Bulletins; and (c) hardware and firmware updates, as released and if applicable.

3.3 **Account Reviews.** Seller shall provide annual account reviews to include (a) service history of site; (b) downtime analysis; and (c) service trend analysis.

3.4 **Remote Installation.** At Customer's request, Seller will provide remote installation advice or assistance for Updates.

3.5 Software Release Compatibility. At Customer's request, Seller will provide: (a) current list of compatible hardware operating system releases, if applicable; and (b) a list of Seller's Software Supplemental or Standard Releases

3.6 On-Site Correction. Unless otherwise stated herein, all suspected Residual Errors will be investigated and corrected from Seller's facilities. Seller shall decide whether on-site correction of any Residual Error is required and will take appropriate action.

4. Compliance to Local, County, State and/or Federal Mandated Changes. *(Applies to Software and interfaces to those Products)* Unless otherwise stated herein, compliance to local, county, state and/or federally mandated changes, including but not limited to IBR, UCR, ECARS, NCIC and state interfaces are not part of the covered Services.

(The below listed terms are applicable only when the Maintenance and Support Agreement includes (a) Equipment which is shown on the Description of Covered Products, Exhibit A to the Maintenance.)

5. On-site Product Technical Support Services. Seller shall furnish labor and parts required due to normal wear to restore the Equipment to good operating condition.

5.1 Seller Response. Seller will provide telephone and on-site response to Central Site, defined as the Customer's primary data processing facility, and Remote Site, defined as any site outside the Central Site, as shown in Support Plan Options and Pricing Worksheet.

5.2 At Customer's request, Seller shall provide continuous effort to repair a reported problem beyond the PPM. Provided Customer gives Seller access to the Equipment before the end of the PPM, Seller shall extend a two (2) hour grace period beyond PPM at no charge. Following this grace period, any additional on-site labor support shall be invoiced on a time and material basis at Seller's then current rates for professional services.

Terms & Conditions

Idemia Identity & Security USA LLC, ("IDEMIA" or "Seller") having a principal place of business at 5515 East La Palma Avenue, Suite 100, Anaheim, CA 92807, and City of El Paso ("Customer"), having a place of business at 300 N. Campbell St., El Paso, TX 79903, enter into this Maintenance and Support Agreement ("Agreement"), pursuant to which Customer will purchase and Seller will sell the maintenance and support services as described below and in the attached exhibits. Seller and Customer may be referred to individually as "party" and collectively as "parties."

For good and valuable consideration, the parties agree as follows.

Section 1. EXHIBITS

The Exhibits listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement will take precedence over the Exhibits and any inconsistency between the Exhibits will be resolved in the order in which they are listed below.

Exhibit-A "Description of Covered Products"

Exhibit-B "Support Plan"

Exhibit-C "Support Plan Options and Pricing Worksheet"

Section 2. DEFINITIONS

"Equipment" means the physical hardware purchased by Customer from Seller pursuant to a separate System Agreement, Products Agreement, or other form of agreement.

"IDEMIA" means Idemia Identity & Security USA LLC.

"IDEMIA Software" means Software that IDEMIA or Seller owns. The term includes Product Releases, Standard Releases, and Supplemental Releases.

"Non-IDEMIA Software" means Software that a party other than IDEMIA or Seller owns.

"Optional Technical Support Services" means fee-based technical support services that are not covered as part of the standard Technical Support Services.

"Patch" means a specific change to the Software that does not require a Release.

"Principal Period of Maintenance" or "PPM" means the specified days, and times during the days, that maintenance and support services will be provided under this Agreement. The PPM selected by Customer is indicated in the Support Plan Options and Pricing Worksheet.

"Products" means the Equipment (if applicable as indicated in the Description of Covered Products) and Software provided by Seller.

"Releases" means an Update or Upgrade to the IDEMIA Software and are characterized as "Supplemental Releases," "Standard Releases," or "Product Releases." A "Supplemental Release" is defined as a minor release of IDEMIA Software that contains primarily error corrections to an existing Standard Release and may contain limited improvements that do not affect the overall structure of the IDEMIA Software. Depending on Customer's specific configuration, a Supplemental Release might not be applicable. Supplemental Releases are identified by the third digit of the three-digit release number, shown here as underlined: "1.2.3". A "Standard Release" is defined as a major release of IDEMIA Software that contains product enhancements and improvements, such as new databases, modifications to databases, or new servers. A Standard Release may involve file and database conversions, System configuration changes, hardware changes, additional training, on-site installation, and System downtime. Standard Releases are identified by the second digit of the three-digit release number, shown here as underlined: "1.2.3". A "Product Release" is defined as a major

release of IDEMIA Software considered to be the next generation of an existing product or a new product offering. Product Releases are identified by the first digit of the three-digit release number, shown here as underlined: "1.2.3". If a question arises as to whether a Product offering is a Standard Release or a Product Release, IDEMIA's opinion will prevail, provided that IDEMIA treats the Product offering as a new Product or feature for its end user customers generally.

"Residual Error" means a software malfunction or a programming, coding, or syntax error that causes the Software to fail to conform to the Specifications.

"Services" means those maintenance and support services described in the Support Plan and provided under this Agreement.

"Software" means the IDEMIA Software and Non-IDEMIA Software that is furnished with the System or Equipment.

"Specifications" means the design, form, functionality, or performance requirements described in published descriptions of the Software, and if also applicable, in any modifications to the published specifications as expressly agreed to in writing by the parties.

"Standard Business Day" means Monday through Friday, 8:00 a.m. to 5:00 p.m. local time, excluding established IDEMIA holidays.

"Standard Business Hour" means a sixty (60) minute period of time within a Standard Business Day(s).

"Start Date" means the date upon which this Agreement begins. The Start Date is specified in the Support Plan Options and Pricing Worksheet.

"System" means the Products and services provided by Seller as a system as more fully described in the Technical and Implementation Documents attached as exhibits to a System Agreement between Customer and Seller (or IDEMIA).

"Technical Support Services" means the remote telephonic support provided by Seller on a standard and centralized basis concerning the Products, including diagnostic services and troubleshooting to assist Customer in ascertaining the nature of a problem being experienced by the Customer, minor assistance concerning the use of the Software (including advising or assisting the Customer in attempting data/database recovery, database set up, client-server advice), and assistance or advice on installation of Releases provided under this Agreement.

"Update" means a Supplemental Release or a Standard Release.

"Upgrade" means a Product Release.

Section 3. SCOPE AND TERM OF SERVICES

3.1. In accordance with the provisions of this Agreement and in consideration of the payment by Customer of the price for the Services, Seller will provide to Customer the Services in accordance with Customer's selections as indicated in the Support Plan Options and Pricing Worksheet, and such Services will apply only to the Products described in the Description of Covered Products.

3.2. Unless the Support Plan Options and Pricing Worksheet expressly provides to the contrary, the term of this Agreement is one (1) year, beginning on the Start Date. This annual maintenance and support period will automatically renew upon the anniversary date for successive one (1) year periods unless either party notifies the other of its intention to not renew the Agreement (in whole or part) not less than thirty (30) days before the anniversary date or this Agreement is terminated for default by a party.

3.3. This Agreement covers all copies of the specified Software listed in the Description of Covered Products that are

licensed by Seller to Customer. If the price for Services is based upon a per unit fee, such price will be calculated on the total number of units of the Software that are licensed to Customer as of the beginning of the annual maintenance and support period. If, during an annual maintenance and support period, Customer acquires additional units of the Software that is covered by this Agreement, the price for maintenance and support services for those additional units will be calculated and added to the total price either (1) if and when the annual maintenance and support period is renewed or (2) immediately when Customer acquires the additional units, as IDEMIA determines. Seller may adjust the price of the maintenance and support services effective as of a renewal if it provides to Customer notice of the price adjustment at least forty-five (45) days before the expiration of the annual maintenance and support period. If Customer notifies Seller of its intention not to renew this Agreement as permitted by Section 3.2 and later wishes to reinstate this Agreement, it may do so with Seller's consent provided (a) Customer pays to Seller the amount that it would have paid if Customer had kept this Agreement current, (b) Customer ensures that all applicable Equipment is in good operating conditions at the time of reinstatement, and (c) all copies of the specified Software listed in the Description of Covered Products are covered.

3.4. When Seller performs Services at the location of installed Products, Customer agrees to provide to Seller, at no charge, a non-hazardous environment for work with shelter, heat, light, and power, and with full and free access to the covered Products. Customer will provide all information pertaining to the hardware and software with which the Products are interfacing to enable Seller to perform its obligations under this Agreement.

3.5. All Customer requests for covered Services will be made initially with the call intake center identified in the Support Plan Options and Pricing Worksheet.

3.6. Seller will provide to Customer Technical Support Services and Releases as follows:

3.6.1. Seller will provide unlimited Technical Support Services and correction of Residual Errors during the PPM in accordance with the exhibits. The level of Technical Support depends upon the Customer's selection as indicated in the Support Plan Options and Pricing Worksheet. Any Technical Support Services that are performed by Seller outside the contracted PPM and any Residual Error corrections that are outside the scope shall be billed at the then current hourly rates. Technical Support Services will be to investigate specifics about the functioning of covered Products to determine whether there is a defect in the Product and will not be used in lieu of training on the covered Products.

3.6.2. Unless otherwise stated in paragraph 3.6.3 or if the Support Plan Options and Pricing Worksheet expressly provides to the contrary, Seller will provide to Customer without additional license fees an available Supplemental or Standard Release after receipt of a request from Customer, but Customer must pay for any installation or other services and any necessary Equipment or third party software provided by Seller in connection with such Supplemental or Standard Release. Any services will be performed in accordance with a mutually agreed schedule.

3.6.3 Seller will provide to Customer an available Product Release after receipt of a request from Customer, but Customer must pay for all additional license fees, any installation or other services, and any necessary Equipment provided by Seller in connection with such Product Release. Any services will be performed in accordance with a mutually agreed schedule.

3.6.4. Seller does not warrant that a Release will meet Customer's particular requirement, operate in the combinations that Customer will select for use, be uninterrupted or error-free, be backward compatible, or that all errors will be corrected. Full compatibility of a Release with the capabilities and functions of earlier versions of the Software may not be technically feasible. If it is technically feasible, services to integrate these capabilities and functions to the updated or upgraded version of the Software may be purchased at Customer's request on a time and materials basis at Seller's then current rates for professional services.

3.6.5. Seller's responsibilities under this Agreement to provide Technical Support Services shall be limited to the current Standard Release plus the two (2) prior Standard Releases (collectively referred to in this section as "Covered Standard Releases."). Notwithstanding the preceding sentence, Seller will provide Technical Support Services for a Severity Level 1 or 2 error concerning a Standard Release that precedes the Covered Standard Releases unless such error has been corrected by a Covered Standard Release (in which case Customer shall install the Standard Release that fixes the reported error or terminate this Agreement as to the applicable Software).

3.7. The maintenance and support Services described in this Agreement are the only covered services. Unless Optional Technical Support Services are purchased, these Services specifically exclude and Seller shall not be responsible for:

3.7.1. Any service work required due to incorrect or faulty operational conditions, including but not limited to Equipment not connected directly to an electric surge protector, or not properly maintained in accordance with the manufacturer's guidelines.

3.7.2. The repair or replacement of Products or parts resulting from failure of the Customer's facilities, Customer's personal property and/or devices connected to the System (or interconnected to devices) whether or not installed by Seller's representatives.

3.7.3. The repair or replacement of Equipment that has become defective or damaged due to physical or chemical misuse or abuse, Customer's negligence, or from causes such as lightning, power surges, or liquids.

3.7.4. Any transmission medium, such as telephone lines, computer networks, or the worldwide web, or for Equipment malfunction caused by such transmission medium.

3.7.5. Accessories, custom or Special Products; modified units; or modified Software.

3.7.6. The repair or replacement of parts resulting from the tampering by persons unauthorized by Seller or the failure of the System due to extraordinary uses.

3.7.7. Operation and/or functionality of Customer's personal property, equipment, and/or peripherals and any application software not provided by Seller.

3.7.8. Services for any replacement of Products or parts directly related to the removal, relocation, or reinstallation of the System or any System component.

3.7.9. Services to diagnose technical issues caused by the installation of unauthorized components or misuse of the System.

3.7.10 Services to diagnose malfunctions or inoperability of the Software caused by changes, additions, enhancements, or modifications in the Customer's platform or in the Software.

3.7.11 Services to correct errors found to be caused by Customer-supplied data, machines, or operator failure.

3.7.12. Operational supplies, including but not limited to, printer paper, printer ribbons, toner, photographic paper, magnetic tapes and any supplies in addition to that delivered with the System; battery replacement for uninterruptible power supply (UPS); office furniture including chairs or workstations.

3.7.13. Third-party software unless specifically listed on the Description of Covered Products.

3.7.14. Support of any interface(s) beyond Seller-provided port or cable, or any services that are necessary because third party hardware, software or supplies fail to conform to the specifications concerning the Products.

3.7.15. Services related to customer's failure to back up its data or failure to use an UPS system to protect against power interruptions.

3.7.16. Any design consultation such as, but not limited to, configuration analysis, consultation with Customer's third-party provider(s), and System analysis for modifications or Upgrades or Updates which are not directly related to a Residual Error report.

3.8. The Customer hereby agrees to:

3.8.1. Maintain any and all electrical and physical environments in accordance with the System manufacturer's specifications.

3.8.2. Provide standard industry precautions (e.g. back-up files) ensuring database security, per Seller's recommended backup procedures.

3.8.3. Ensure System accessibility, which includes physical access to buildings as well as remote electronic access. Remote access can be stipulated and scheduled with customer; however, remote access is required and will not be substituted with on-site visits if access is not allowed or available.

3.8.4. Appoint one or more qualified employees to perform System Administration duties, including acting as a primary point of contact to Seller's Customer Support organization for reporting and verifying problems, and performing System backup. At least one member of the System Administrators group should have completed Seller's End-User training and System Administrator training (if available). The combined skills of this System Administrators group should include proficiency with: the Products, the system platform upon which the Products operate, the operating system, database administration, network capabilities such as backing up, updating, adding, and deleting System and user information, and the client, server and stand alone personal computer hardware. The System Administrator shall follow the Residual Error reporting process described herein and make all reasonable efforts to duplicate and verify problems and assign a Severity Level according to definitions provided herein. Customer agrees to use reasonable efforts to ensure that all problems are reported and verified by the System Administrator before reporting them to Seller. Customer shall assist Seller in determining that errors are not the product of the operation of an external system, data links between system, or network administration issues. If a Severity Level 1 or 2 Residual Error occurs, any Customer representative may contact Seller's Customer Support Center by telephone, but the System Administrator must follow up with Seller's Customer Support as soon as practical thereafter.

3.9. In performing repairs under this Agreement, Seller may use parts that are not newly manufactured but which are warranted to be equivalent to new in performance. Parts replaced by Seller shall become Seller's property.

3.10 Customer shall permit and cooperate with Seller so that Seller may periodically conduct audits of Customer's records and operations pertinent to the Services, Products, and usage of application and data base management software. If the results of any such audit indicate that price has been understated, Seller may correct the price and immediately invoice Customer for the difference (as well as any unpaid but owing license fees). Seller will limit the number of audits to no more than one (1) per year except Seller may conduct quarterly audits if a prior audit indicated the price had been understated.

3.11. If Customer replaces, upgrades, or modifies equipment, or replaces, upgrades, or modifies hardware or software that interfaces with the covered Products, Seller will have the right to adjust the price for the Services to the appropriate current price for the new configuration.

3.12 Customer shall agree not to attempt or apply any update(s), alteration(s), or change(s) to the database software without the prior approval of the Seller.

Section 4. RIGHT TO SUBCONTRACT AND ASSIGN

Seller may assign its rights and obligations under this Agreement and may subcontract any portion of Seller's performance called for by this Agreement.

Section 5. PRICING, PAYMENT AND TERMS

5.1 Prices in United States dollars are shown in the Support Plan Options and Pricing Worksheet and are subject to a 5% escalation fee for each subsequent support year. Unless this exhibit expressly provides to the contrary, the price is payable annually in advance. Seller will provide to Customer an invoice, and Customer will make payments to Seller within twenty (20) days after the date of each invoice. During the term

of this Agreement, Customer will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a United States financial institution.

5.2. Overdue invoices will bear simple interest at the rate of ten percent (10%) per annum, unless such rate exceeds the maximum allowed by law, in which case it will be reduced to the maximum allowable rate.

5.3 If Customer requests, Seller may provide services outside the scope of this Agreement or after the termination or expiration of this Agreement and Customer agrees to pay for those services. These terms and conditions and the prices in effect at the time such services are rendered will apply to those services.

5.4 Price(s) are exclusive of any taxes, duties, export or customs fees, including Value Added Tax or any other similar assessments imposed upon Seller. If such charges are imposed upon Seller, Customer shall reimburse Seller upon receipt of proper documentation of such assessments.

Section 6. LIMITATION OF LIABILITY

This limitation of liability provision shall apply notwithstanding any contrary provision in this Agreement. Except for personal injury or death, Seller's (including any of its affiliated companies) total liability arising from this Agreement will be limited to the direct damages recoverable under law, but not to exceed the price of the maintenance and support services being provided for one (1) year under this Agreement. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT SELLER (INCLUDING ANY OF ITS AFFILIATED COMPANIES) WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE SYSTEM, EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY SELLER PURSUANT TO THIS AGREEMENT. This limitation of liability will survive the expiration or termination of this Agreement. No action for breach of this Agreement or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of such cause of action, except for money due upon an open account.

Section 7. DEFAULT/TERMINATION

7.1. If IDEMIA breaches a material obligation under this Agreement (unless Customer or a Force Majeure causes such failure of performance), Customer may consider IDEMIA to be in default. If Customer asserts a default, it will give IDEMIA written and detailed notice of the default. IDEMIA will have thirty (30) days thereafter either to dispute the assertion or provide a written plan to cure the default that is acceptable to Customer. If IDEMIA provides a cure plan, it will begin implementing the cure plan immediately after receipt of Customer's approval of the plan.

7.2. If Customer breaches a material obligation under this Agreement (unless IDEMIA or a Force Majeure causes such failure of performance); if Customer breaches a material obligation under the Software License Agreement that governs the Software covered by this Agreement; or if Customer fails to pay any amount when due under this Agreement, indicates that it is unable to pay any amount when due, indicates it is unable to pay its debts generally as they become due, files a voluntary petition under bankruptcy law, or fails to have dismissed within ninety (90) days any involuntary petition under bankruptcy law, IDEMIA may consider Customer to be in default. If IDEMIA asserts a default, it will give Customer written and detailed notice of the default and Customer will have thirty (30) days thereafter to (i) dispute the assertion, (ii) cure any monetary default (including interest), or (iii) provide a written plan to cure the default that is acceptable to IDEMIA. If Customer provides a cure plan, it will begin implementing the cure plan immediately after receipt of IDEMIA's approval of the plan.

7.3. If a defaulting party fails to cure the default as provided above in Sections 7.1 or 7.2, unless otherwise agreed in writing, the non-defaulting party may terminate any unfulfilled portion of this Agreement and may pursue any legal or equitable remedies available to it subject to the provisions of Section 6 above.

7.4. Upon the expiration or earlier termination of this Agreement, Customer and Seller shall immediately deliver to the other Party, as the disclosing Party, all Confidential Information of the other, including all copies thereof, which the other Party previously provided to it in furtherance of this Agreement. Confidential Information shall include: (a) proprietary materials and information regarding technical plans; (b) any and all other information, of whatever type and in whatever medium including data, developments, trade secrets and improvements, that is disclosed by Seller to Customer in connection with this Agreement; (c) all geographic information system, address, telephone, or like records and data provided by Customer to Seller in connection with this Agreement that is required by law to be held confidential.

Section 8. GENERAL TERMS AND CONDITIONS

8.1. Notices required under this Agreement to be given by one party to the other must be in writing and either delivered in person or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service), or by facsimile with correct answerback received, and shall be effective upon receipt

Customer: _____ City of El Paso
Attn: _____ Claudia A. Garcia
_____ 300 N. Campbell St.
_____ El Paso, TX 79903

Seller: _____ Idemia Identity & Security USA LLC
Attn: _____ Maintenance Agreements
_____ 5515 East La Palma Avenue, Suite 100
_____ Anaheim, CA 92807
_____ Phone: (714)238-2000 Fax: (714)632-2158

8.2. Neither party will be liable for its non-performance or delayed performance if caused by an event, circumstance, or act of a third party that is beyond such party's reasonable control.

8.3. Failure or delay by either party to exercise any right or power under this Agreement will not operate as a waiver of such right or power. For a waiver to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

8.4. Customer may not assign any of its rights under this Agreement without IDEMIA's prior written consent.

8.5. This Agreement, including the exhibits, constitutes the entire agreement of the parties regarding the covered maintenance and support services and supersedes all prior and concurrent agreements and understandings, whether written or oral, related to the services performed. Neither this Agreement nor the Exhibits may not be altered, amended, or modified except by a written agreement signed by authorized representatives of both parties. Customer agrees to reference this Agreement on all purchase orders issued in furtherance of this Agreement. Neither party will be bound by any terms contained in Customer's purchase orders, acknowledgements, or other writings (even if attached to this Agreement).

8.6. This Agreement will be governed by the laws of the United States to the extent that they apply and otherwise by the laws of the State to which the Products are shipped if Licensee is a sovereign government entity or the laws of the State of Delaware if Licensee is not a sovereign government entity.

Section 9. CERTIFICATION DISCLAIMER

Seller specifically disclaims all certifications regarding the manner in which Seller conducts its business or performs its obligations under this Agreement, unless such certifications have been expressly accepted and signed by an authorized signatory of Seller.

Section 10. COMPLIANCE WITH APPLICABLE LAWS

The Parties shall at all times comply with all applicable regulations, licenses and orders of their respective countries relating to or in any way affecting this Agreement and the performance by the Parties of this Agreement. Each Party, at its own expense, shall obtain any approval or permit required in the performance of its obligations. Neither Seller nor any of its employees is an agent or representative of Customer.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the day and year first written above.