

Feather River West Levee Financing Authority

Board of Directors Special Meeting Agenda – December 11, 2024 1:30 p.m.

City of Yuba City Council Chambers – 1201 Civic Center Blvd., Yuba City

(or upon conclusion of the Sutter Butte Flood Control Board Meeting)

The agenda is posted in the building of the Levee District No. 1 at 243 Second Street, Yuba City. The agenda summary, backup materials, and approved minutes are also posted on the Feather River West Levee Financing Authority website at FRWLFA.org. Materials related to an item on this agenda and submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the Levee District 1 office at 243 Second Street, Yuba City, during normal business hours. In compliance with the American with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available. If you have a disability and need, disability related modifications or accommodations to participate in this meeting, please contact the FRWLFA Board Clerk at 530-755-9859 or admin@sutterbutteflood.org. Requests must be made one full business day before the start of the meeting.

Levee District 1

Charlie Hoppin

Alt: Al Montna

Alt: Gary Marler

Levee District 9

Mike Morris

Alt: Chris Schmidl

Sutter County

Nicolas Micheli

Alt: Karm Bains

Persons wishing to address the Board during consideration of matters listed on the agenda will be allowed to do so. Testimony should always begin with the speaker giving his or her name and place of residence. Requests for assistive listening devices or other accommodations, such as interpretive services, should be made through the FRWLFA Board Clerk at 530-755-9859. Requests should be made at least 72 hours prior to the meeting. Later requests will be accommodated to the extent feasible.

AGENDA SUMMARY

SPECIAL MEETING/CALL TO ORDER

- Roll Call
- Pledge of Allegiance

PUBLIC COMMENT

Members of the public will be allowed to address the Feather River West Levee Financing Authority Board of Directors on items of interest to the public that are within the subject matter jurisdiction of the Board. Any member of the audience who may wish to bring a matter before the Board that has not been placed on the agenda may do so at this time; however, State law provides that no action may be taken on any item not appearing on the posted Agenda.

CONSENT CALENDAR

The Consent Calendar groups together those items which are considered noncontroversial or for which prior policy direction has been given to staff and that require only routine action by the Board. The Chair will advise the audience that the matters may be adopted in total by one motion; however, the Board may, at its option or upon request of a member of the public, consider any matter separately.

1. Approval of the minutes for the June 12, 2024 Board Meeting.

2. Approval of the 2025 schedule for regular FRWLFA Board meetings.
3. Approval of Use and Indemnification Agreement with Sutter County for Access as an Authorized Party to Sutter County's Subscription to the Workday Application System.

PRESENTATION, DISCUSSION & ACTION ITEMS

4. Executive Director Report of Activities – (Informational Only)

ADJOURNMENT

The next regularly scheduled Board of Directors meeting is scheduled for February 12, 2025 at 1:30 p.m. and will only be conducted if needed.

Feather River West Levee Financing Authority

Board of Directors Special Meeting Minutes, June 12, 2024, 2:00 p.m.

The Feather River West Levee Financing Authority (Agency) Board of Directors (Board), State of California, met on the above date at 2 p.m. at the City of Yuba City Council Chambers - 1201 Civic Center Boulevard, Yuba City, CA.

These minutes do not represent a transcript of the meeting and are intended to be a summary of the most important points. For a complete record, please refer to the video recording of the meeting, which is posted on FRWLFA's website: <http://frwlfa.org/governance/meetings>

MEMBERS PRESENT

Levee District 1:	Charlie Hoppin
Levee District 9:	Mike Morris
County of Sutter:	Nicolas Micheli

STAFF PRESENT: Drew Stresser, Executive Director; Michael Bessette, SBFCA Executive Director; Chris Fritz, SBFCA Director of Engineering; Andrea Clark, SBFCA Counsel; Seth Wurzel, SBFCA Budget Manager; and Terra Yaney, Board Clerk

MEETING/CALL TO ORDER

At 2:00 p.m., Director Charlie Hoppin opened the meeting and led the group in the pledge of allegiance.

PUBLIC COMMENT

No Public Comment

CONSENT CALENDAR

1. Approval of the minutes for the February 14, 2024 Board Meeting

A motion to approve the Consent Calendar was made by Director Mike Morris and seconded by Director Nicolas Micheli. The motion passed with no objection. The motion was approved as follows:

- Charlie Hoppin - yes
- Mike Morris - yes
- Nicolas Micheli - yes

PRESENTATION, DISCUSSION & ACTION ITEMS

2. Adoption of Resolution approving the 2024-25 Fiscal Year Assessment District Budget and levy and collection of assessments for the Feather River West Levee Financing Authority Operations and Maintenance Assessment District in Sutter County

Budget Manager Seth Wurzel reported that the resolution approves the annual budget of the assessment district including the authorized escalation of the maximum assessment rate for FY 2024-25. The recommendation is to approve the resolution authorizing the levy of assessments which will generate approximately \$2.125 million in revenue for FY 2024-25.

A motion to adopt the Resolution approving the 2024-25 FY Assessment District Budget and levy and collection of assessments for FRWLFA was made by Director Mike Morris and seconded by Director Nicholas Micheli. The motion passed with no objection. The motion was approved as follows:

- Charlie Hoppin - yes
- Nicolas Micheli - yes

- Mike Morris - yes

3. SBFCA Services Update – (Informational Only)

Budget Manager Seth Wurzel provided an update on the services agreement between SBFCA and FRWLFA for the formation of the JPA and the associated assessment. He reported that the services agreement extends through June 30, 2024. He reported that as of June 11th we are at \$698,587. Once the final accounting is complete we will start to repay the \$750k allocated by SBFCA over the next 15 years.

PUBLIC COMMENT

No public comment

The entire recording, along with a PowerPoint presentation is available on the FRWLFA website at: <http://frwlfa.org/governance/meetings>

ADJOURNMENT

With no further business coming before the Board, the meeting was adjourned at 2:09 p.m.

ATTEST BY: _____

Terra Yaney, Board Clerk

Board Chair

Feather River West Levee Financing Authority

December 11, 2024

TO: Board of Directors

FROM: Andrew Stresser – FRWLFA Executive Director

SUBJECT: Approval of the 2025 schedule for regular FRWLFA Board meetings

Recommendation

Notwithstanding the January 2025 meeting, it is recommended that the Board meet regularly on the second Wednesday of each month at 1:30 p.m. or upon the conclusion of Sutter Butte Flood Control Agency Board Meeting, whichever is sooner, until further notice. The January 2025 Board meeting is cancelled.

Background

The FRWLFA Board of Directors conducts regular meetings regarding Agency business. Meetings will be held at 1:30 p.m. at the City of Yuba City Council Chamber, 1201 Civic Center Blvd., Yuba City, CA.

Fiscal Impact

There is no fiscal impact.

Feather River West Levee Financing Authority

December 11, 2024

TO: Board of Directors

FROM: Andrew Stresser – FRWLFA Executive Director

SUBJECT: Approval of Use and Indemnification Agreement with Sutter County for Access as an Authorized Party to Sutter County's Subscription to the Workday Application System

Recommendation

The approve the attached Use and Indemnification Agreement with Sutter County to allow for FRWLFA's access to Sutter County's enterprise resource planning (ERP) system called Workday so that FRWLFA can access financial information.

Background

Sutter County recently implemented a new ERP system, Workday. Pursuant to the FRWLFA Joint Exercise of Powers Agreement, Sutter County holds all of FRWLFA's funds with the County. In order for FRWLFA staff to have access to information regarding its funds and process payments, it needs access to Sutter County's ERP system. The license agreement between Sutter County and Workday requires that all Authorized Users approve a Use and Indemnification Agreement. Approval of the attached Use and Indemnification Agreement by the FRWLFA Board will allow FRWLFA staff to have the needed access to financial information and process payments.

Fiscal Impact

There is no fiscal impact.

Attachment:

- Use and Indemnification Agreement with Sutter County for Access as an Authorized Party to Sutter County's Subscription to the Workday Application System

USE AND INDEMNIFICATION AGREEMENT

This Use and Indemnification Agreement (“Agreement”) is entered into between the County of Sutter, a political subdivision of the State of California (“County”) and Feather River West Levee Financing Authority (“District”). This Agreement is effective as of the date last signed below.

RECITALS:

A. On June 28, 2022, the County entered into a Master Subscription Agreement with Workday, Inc. for the right-of-use Workday Application System (“Exhibit A”); and,

B. Under the terms of that agreement, the County is authorized to allow Agents, who are defined as “Authorized Parties” under the agreement, to access certain components of the system including business process for deposit, accounts payable, journal entries, reviewing of financial reports, and/or the use of the Dashboard to access any of the above functions; and,

C. District is desirous of accessing these components of Workday as a “Authorized Parties” under the agreement and County is willing to allow such access under the terms and conditions set forth herein.

AGREEMENT:

County and District agree as follows:

1. **NOTICE OF DESIGNEE:** District shall appoint one or more representatives to access the Workday system and shall provide the names, titles and contact information to County prior to accessing the Workday system. Said individuals shall be the only people authorized to access the system and no other individual shall access the system without the express, written approval of County. Should District elect to change any designated individual, said change shall not be effective until such time as notice has been provided to the County.

2. **ACCESS:** County hereby designates District’s appointed representative as a “Authorized Parties” under the June 28, 2022, Master Subscription Agreement with Workday, Inc. and authorizes that individual to access the Workday system to the extent permitted by the Master Subscription Agreement.

3. **COMPLIANCE WITH LICENSE AGREEMENT:** District agrees to comply with all the provisions of the June 28,2022, Master Subscription Agreement, and any and all amendments thereto, entered into between the County and Workday, Inc. and agrees to be bound by the terms of such agreement. County agrees to promptly provide all amendments to the June 28,2022, Master Subscription Agreement to District.

4. **INDEMNIFICATION:** District agrees to defend (with legal counsel reasonably acceptable to the County), indemnify and hold harmless the County, it’s officers, employees, and agents, from and against any and all claims, losses, costs, damages, injuries (including injury to or death), expenses and liabilities of every kind, nature and description (including incidental and consequential damages, court costs, attorneys’ fees, litigation expenses and fees of expert consultants or expert witnesses incurred in the connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, District’s use and access to the Workday system.

5. **NOTICE:** Any notice required to be given under this Agreement shall be given by personal delivery or by U.S. Mail first class postage prepaid or overnight courier addressed to the

following:

COUNTY: County of Sutter
Attn.: Auditor-Controller
1160 Civic Center Blvd # D
Yuba City, California 95993

District: Feather River West Levee Financing Authority
Attn: Executive Director Andrew Stresser
243 Second Street
Yuba City, CA 95991

6. **AMENDMENTS:** Modifications or amendments to this Agreement shall be in writing and executed by both parties.

7. **ENTIRE AGREEMENT:** This Agreement represents the final agreement between the parties regarding the matters set forth herein and supersedes all prior and contemporaneous oral and written communications.

8. **SUCCESSORS AND ASSIGNS:** This agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.

9. **CONSTRUCTION:** This agreement reflects the contributions of both parties and accordingly the provisions of Civil Code Section 1654 shall not apply in interpreting this Agreement.

10. **DURATION:** This agreement shall last from the date last signed below and shall remain in effect unless changed in accordance with this agreement for five years or until the termination of the June 28, 2022, Master Subscription Agreement, whichever is first.

11. **DISPUTES:** If the parties fail to mutually agree on any matters under this Agreement or if either party believes the other has failed to satisfactorily perform or is otherwise in breach of this Agreement the parties shall submit the matter for resolution in accordance with the following procedures:

- a) If there is a disagreement, dispute or alleged breach arising out of or in connection with this Agreement, the disputing party shall first provide a written statement to the other party describing the general nature of the claim.
- b) Within fifteen (15) business days of the receipt of the statement, the Board Director of Feather River West Levee Financing Authority and the County Administrator of Sutter County, or their designee, shall meet and confer in good faith.

12. **CONFIDENTIALITY:** The parties to this plan acknowledge that all information gathered within the scope of this Agreement will be handled in full compliance with the Sutter County Information Technology Security Policy ("Exhibit B"), and as otherwise required by law or County policies.

Feather River West Levee Financing Authority

BY: _____
Board Chairman
Feather River West Levee Financing Authority

_____ Date

SUTTER COUNTY

BY: _____
Chairman
Sutter County Board of Supervisors

_____ Date

ATTEST

Donna M. Johnston, Clerk-Recorder By: Deputy

_____ Date

APPROVED AS TO FORM:

By: _____
Office of County Counsel

EXHIBIT A – MASTER SUBSCRIPTION AGREEMENT

MASTER SUBSCRIPTION AGREEMENT

Documents	Agreement Number
Master Subscription Agreement (v21.1)	Agreement #: 00339520.0
Subscription Order Form	Order Form #: 345889
Training Order Form	Order Form #: 339490
Professional Services Agreement (v19.5)	PSA #: 352867
Statement of Work	Statement of Work #: 357919

By executing this document (“**Signature Document**”), the undersigned agree they are duly authorized signatories and all documents listed in the above table are entered into between the parties, effective as of the later of the dates beneath the parties’ signatures below (“**Effective Date**”). References to Signature Document and Effective Date in the Master Subscription Agreement shall mean those terms as defined in the preceding sentence.

County of Sutter 463 Second St Yuba City, California 95991 United States	Workday, Inc. 6110 Stoneridge Mall Road Pleasanton, CA 94588
Signature	Signature
Name	Name
Title	Title
Date Signed	Date Signed
Approved as to Legal Form by:	Approved as to Legal Form by:



MASTER SUBSCRIPTION AGREEMENT

This Master Subscription Agreement, effective as of the Effective Date set out in the Signature Document, is by and between **Workday, Inc. ("Workday")** a Delaware corporation with offices at 6110 Stoneridge Mall Road, Pleasanton, CA 94588 and County of Sutter ("**Customer**"), with offices at 463 Second St, Yuba City, California 95991, United States. As Workday provides a subscription Service to which Customer intends to subscribe, this Agreement establishes the business relationship and allocation of responsibilities regarding the Service and the parties therefore agree as follows:

1. Provision of Service.

1.1 Workday Obligations. During the Term of this Agreement, Workday shall: (i) make the Service and improvements available to Customer in accordance with the Documentation, the SLA and pursuant to the terms of this Agreement; (ii) not use Customer Data except to provide the Service, or to prevent or address service or technical problems, verify Service Improvements, in accordance with this Agreement and the Documentation, or in accordance with Customer's instructions; and (iii) not disclose Customer Data to anyone other than Authorized Parties in accordance with this Agreement. Workday will provide service credits to Customer according to the *Workday SLA Service Credit Exhibit* attached hereto.

1.2 Customer Obligations. Customer may enable access of the Service for use only by Authorized Parties solely for the internal business purposes of Customer and its Affiliates in accordance with the Documentation and not for the benefit of any third parties. Customer is responsible for all Authorized Party use of the Service and compliance with this Agreement. Customer shall: (a) have sole responsibility for the accuracy, quality, and legality of all Customer Data; and (b) take commercially reasonable efforts to prevent unauthorized access to, or use of, the Service through login credentials of Authorized Parties, and notify Workday promptly of any such unauthorized access or use. Customer shall not: (i) use the Service in violation of applicable Laws; (ii) in connection with the Service, send or store infringing, obscene, threatening, or otherwise unlawful or tortious material, including material that violates privacy rights; (iii) send or store Malicious Code in connection with the Service; (iv) interfere with or disrupt performance of the Service or the data contained therein; or (v) attempt to gain access to the Service or its related systems or networks in a manner not set forth in the Documentation. Customer shall designate a maximum number of named contacts as listed in the applicable Order Form to request and receive support services from Workday ("Named Support Contacts"). Named Support Contacts must be trained on the Workday product(s) for which they initiate support requests. Customer has the sole discretion to determine which of its Employees and Customer Affiliates are designated as Authorized Parties and shall be responsible for the acts and omissions of all Authorized Parties with respect to their use of the Service.

2. Fees.

2.1 Invoices and Payment. Subscription Service Fees and all other fees due hereunder will be invoiced to Customer in the United States and payment will be remitted by Customer from the United States. All fees due hereunder (except fees subject to good faith dispute) shall be due and payable within forty-five (45) days of invoice date. Workday may send all Customer invoices electronically (by email or otherwise). All fees are quoted and payable in United States Dollars and are based on access rights acquired and not actual usage. Customer shall provide Workday with complete and accurate billing and contact information including a valid email address. Upon Workday's request, Customer will make payments via electronic bank transfer. All remittance advice and invoice inquiries can be directed to Accounts.Receivable@workday.com.

2.2 Non-cancelable and non-refundable. Except as specifically set forth to the contrary under Section 6.2 "Warranty Remedies", Section 7 "Indemnification by Workday", Section 9.2 "Termination", and under the SLA, all payment obligations under any and all Order Forms are non-cancelable and all payments made are non-refundable.

2.3 Overdue Payments. Any payment not received from Customer by the due date may accrue (except with respect to charges then under reasonable and good faith dispute), at Workday's discretion, late charges at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

2.4 Non-Payment and Suspension of Service. If Customer's account is more than thirty (30) days past due (except with respect to charges subject to a reasonable and good faith dispute), in addition to any other rights or remedies it may have under this Agreement or by law, Workday reserves the right to suspend the Service upon thirty (30) days written notice, without liability to Customer, until such amounts are paid in full. Such notice shall clearly and prominently state that the Service is at risk of suspension and shall not solely take the form of an invoice with an overdue notice.

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2.5 Taxes. *This section applies only if Customer has not provided Workday with a tax exemption certificate authorized and honored by applicable taxing authorities that covers all Transaction Taxes.* Subscription Services Fees and all other fees invoiced pursuant to this Agreement do not include in its price any transaction taxes, which may include local, state, provincial, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including, but not limited to, value-added taxes ("VAT"), excise, use, goods and services taxes ("GST/HST"), consumption taxes or similar taxes (collectively defined as "Transaction Taxes"). Subscription Service Fees and all other fees invoiced pursuant to this Agreement are payable in full and without reduction for Transaction Taxes and/or foreign withholding taxes (collectively defined as "Taxes"). Customer is responsible for paying all Taxes imposed on the Service or any other services provided under this Agreement. If Workday has a legal obligation to pay or collect Taxes for which Customer is responsible under this Agreement, the appropriate amount shall be computed based on Customer's address listed in the first paragraph of this Agreement which will be used as the ship-to address on the Order Form, and invoiced to and paid by Customer, unless Customer provides Workday with a valid tax exemption certificate authorized by the appropriate taxing authority.

2.6 Employee Count Verification. Workday may periodically confirm the number of Employee records on its hosted servers and will work with Customer to resolve any discrepancy from the subscription levels on applicable Order Form(s). Customer will pay Workday the fees set forth on the applicable Order Form(s) if the number of Employees exceeds the number of permitted Employees. Upon request from Workday, Customer will make an annual report to Workday of its number of Employees as set forth on the applicable Order Form(s).

3. Proprietary Rights.

3.1 Ownership and Reservation of Rights to Workday Intellectual Property. Workday and its licensors own all right, title and interest in and to the Service, Documentation, and other Workday Intellectual Property Rights. Subject to the limited rights expressly granted hereunder, Workday reserves all rights, title and interest in and to the Service, and Documentation, including all related Intellectual Property Rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

3.2 Grant of Rights. Workday hereby grants Customer (for itself and those of Customer's Affiliates and Authorized Parties for whom Customer enables access to the Service) a non-exclusive, non-transferable, right to use the Service and Documentation, solely for the internal business purposes of Customer and its Affiliates and solely during the Term, subject to the terms and conditions of this Agreement within scope of use defined in the relevant Order Form. The Service is provided in U.S. English. Workday has translated portions of the Service into other languages. Customer and its Authorized Parties may only use the translated portions of the Service for the number of languages listed in the applicable Order Form.

3.3 Restrictions. Customer shall not (i) modify or copy the Service or Documentation or create any derivative works based on the Service or Documentation; (ii) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share, offer in a service bureau, or otherwise make the Service or Documentation available to any third party, other than to Authorized Parties as permitted herein; (iii) reverse engineer or decompile any portion of the Service or Documentation, including but not limited to, any software utilized by Workday in the provision of the Service and Documentation, except to the extent required by Law; (iv) access the Service or Documentation in order to build any commercially available product or service; or (v) copy any features, functions, integrations, interfaces or graphics of the Service or Documentation.

3.4 Ownership of Customer Data. As between Workday and Customer, Customer owns its Customer Data.

3.5 Customer Input. Workday shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the Service any Customer Input. Workday shall have no obligation to make Customer Input an Improvement. Customer shall have no obligation to provide Customer Input.

4. Confidentiality.

4.1 Confidentiality. A party shall not disclose or use any Confidential Information of the other party except as reasonably necessary to perform its obligations or exercise its rights pursuant to this Agreement except with the other party's prior written permission.



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4.2 Protection. Each party agrees to protect the Confidential Information of the other party in the same manner that it protects its own Confidential Information of like kind, except as specified in section 4.3, but in no event using less than a reasonable standard of care.

4.3 Compelled Disclosure. A disclosure by one party of Confidential Information of the other party to the extent required by Law shall not be considered a breach of this Agreement, provided the party so compelled promptly provides the other party with prior notice of such compelled disclosure (to the extent legally permitted) and provides reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure. For purposes of this section, a request to Customer for documents or information pursuant to the California Public Records Act will be considered a compelled disclosure. All parties acknowledge that Customer may not make any assertion of exemption on behalf of Workday in response to a Public Records Act request. In addition, Customer may disclose Order Forms and this Agreement in accordance with requirements for publication of items that will be on the Customer's Board of Supervisor's agenda. Such disclosure may take the form of a website-accessible posting of those documents.

4.4 Remedies. If a party discloses or uses (or threatens to disclose or use) any Confidential Information of the other party in breach of confidentiality protections hereunder, the other party shall have the right, in addition to any other remedies available, to injunctive relief to enjoin such acts, it being acknowledged by the parties that any other available remedies are inadequate.

4.5 Exclusions. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the other party; (ii) was known to a party prior to its disclosure by the other party without breach of any obligation owed to the other party; (iii) was independently developed by a party without breach of any obligation owed to the other party; or (iv) is received from a third party without breach of any obligation owed to the other party. Customer Data shall not be subject to the exclusions set forth in this Section.

5. Customer Data.

5.1 Protection and Security. During the Term of this Agreement, Workday shall maintain a formal security program materially in accordance with industry standards that is designed to: (i) ensure the security and integrity of Customer Data; (ii) protect against threats or hazards to the security or integrity of Customer Data; and (iii) prevent unauthorized access to Customer Data. Such security program will conform to the *Workday Security Exhibit* attached hereto, and is further described in Workday's most recently completed Service Organization Control 1 (SOC1) and Service Organization Control 2 (SOC2) audit reports or industry-standard successor reports. The most recently completed, as of the Effective Date, SOC1 and SOC2 audit reports are referred to as the "Current Audit Reports". Each year, Workday will retain a nationally recognized public accounting firm to produce such an audit report relating to the Service at Workday's cost. In no event during the Term shall Workday materially diminish the protections provided by the controls set forth in Workday's Security Exhibit and the Current Audit Reports. Workday will promptly remediate any material deficiencies identified in the Current Audit Report. Upon Customer's request, Workday will provide Customer with a copy of Workday's then-current SOC1 and SOC2 audit reports or comparable industry-standard successor report prepared by Workday's independent third party auditor. The *Data Processing Exhibit* attached hereto will apply to the processing of Personal Data (as defined in the Data Processing Exhibit). Workday designs its Service to allow Customers to achieve differentiated configurations, enforce user access controls, and manage data categories that may be populated and/or made accessible on a country-by-country basis. Customer understands that its use of the Service and compliance with any terms hereunder does not constitute compliance with any Law. Customer understands that it has an independent duty to comply with any and all Laws applicable to it.

5.2 Unauthorized Disclosure. If either party believes that there has been a Security Breach, such party must promptly notify the other party, unless legally prohibited from doing so, within forty-eight hours or any shorter period as may be required by Law. Additionally, each party will reasonably assist the other party in mitigating any potential damage. Each party shall bear the costs of such remediation or mitigation to the extent the breach or security incident was caused by it except as such costs may be allocated pursuant to Section 5.3. As soon as reasonably practicable after any such Security

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Breach that is not clearly attributable to Customer or its Authorized Parties, Workday shall conduct a root cause analysis and, upon request, will share the results of its analysis and its remediation plan with Customer.

5.3 Workday Remediation of Certain Unauthorized Disclosures. In the event that any unauthorized access to or acquisition of Personal Data is caused by Workday's breach of its security and/or privacy obligations under this Agreement, Workday shall pay the reasonable and documented costs incurred by Customer in connection with the following items: (a) costs of any required forensic investigation to determine the cause of the breach, (b) providing notification of the security breach to applicable government and relevant industry self-regulatory agencies, to the media (if required by applicable Law) and to individuals whose Personal Data may have been accessed or acquired, (c) providing credit monitoring service to individuals whose Personal Data may have been accessed or acquired for a period of one year after the date on which such individuals were notified of the unauthorized access or acquisition for such individuals who elected such credit monitoring service, and (d) operating a call center to respond to questions from individuals whose Personal Data may have been accessed or acquired for a period of one year after the date on which such individuals were notified of the unauthorized access or acquisition. NOTWITHSTANDING THE FOREGOING, OR ANYTHING IN THE AGREEMENT TO THE CONTRARY, WORKDAY SHALL HAVE NO RESPONSIBILITY TO PAY COSTS OF REMEDIATION THAT ARE DUE TO RECKLESS MISCONDUCT, GROSS NEGLIGENCE, WILLFUL MISCONDUCT AND/OR FRAUD BY CUSTOMER OR ITS EMPLOYEES, AGENTS OR CONTRACTORS.

6. Warranties and Disclaimers.

6.1 Warranties. Each party warrants that it has the authority to enter into this Agreement and, in connection with its performance of this Agreement, shall comply with all Laws applicable to it related to data privacy, international communications and the transmission of technical or personal data. Workday warrants that during the Term (i) the Service shall perform materially in accordance with the Documentation; (ii) the functionality of the Service will not be materially decreased during the Term; and (iii) to the best of its knowledge, the Service does not contain any Malicious Code. Workday further warrants that it will not knowingly introduce any Malicious Code into the Service. Malicious Code, no matter how introduced, will be remedied in accordance with Section 6.2.

6.2 Warranty Remedies. In the event of Workday's breach of the warranty set forth in Section 6.1 (i) or (ii), or upon the discovery of Malicious Code in the Service, (a) Workday shall correct the non-conforming Service at no additional charge to Customer, or (b) in the event Workday is unable to correct such deficiencies after good-faith efforts, Workday shall refund Customer amounts paid that are attributable to the defective Service from the date Customer first reported the applicable deficiencies to Workday through the date that such deficiencies are remedied. To receive the refund remedy, Customer must promptly report deficiencies in writing to Workday, but no later than thirty (30) days following the first date the deficiency is identified and confirmed by Customer, but Customer's failure to notify Workday within such thirty (30) day period shall not affect Customer's right to receive the remedy in Section 6.2(a) unless Workday is somehow unable, or impaired in its ability to, correct the deficiency due to Customer's failure to notify Workday within the thirty (30) day period. Notice of breaches of the warranty in Section 6.1(i) or (iii) shall be made through Workday's then-current error reporting system; notices of breaches of any other warranty shall be made in writing to Workday in accordance with the Notice provisions of this Agreement. The remedies set forth in this subsection 6.2 shall be Customer's sole remedy and Workday's sole liability for breach of the warranties in Section 6.1 unless the breach of warranty constitutes a material breach of the Agreement and Customer elects to terminate the Agreement in accordance with Section 9.2 (Termination).

6.3 DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 6 AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WORKDAY MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, WITH RESPECT TO THE SERVICE AND/OR RELATED DOCUMENTATION. WORKDAY DOES NOT WARRANT THAT THE SERVICE WILL BE ERROR FREE OR UNINTERRUPTED. THE LIMITED WARRANTIES PROVIDED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO CUSTOMER IN CONNECTION WITH THE PROVISION OF THE SERVICE.

7. Intellectual Property Indemnification by Workday. Workday shall defend, indemnify and hold Customer harmless against any loss, damage or costs (including reasonable attorneys' fees) in connection with claims, demands, suits, or proceedings ("Claims") made or brought against Customer by a third party alleging that the use of the Service as

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contemplated hereunder infringes any third party's Intellectual Property Rights; provided, however, that Customer: (a) promptly gives written notice of the Claim to Workday; (b) gives Workday sole control of the defense and settlement of the Claim (provided that Workday may not settle any Claim unless it unconditionally releases Customer of all liability); and (c) provides to Workday, at Workday's cost, all reasonable assistance. Workday shall not be required to indemnify Customer to the extent that the alleged infringement arises from: (w) modification of the Service by Customer, its Employees, or Authorized Parties in conflict with Customer's obligations or as a result of any prohibited activity as set forth herein; (x) use of the Service in a manner inconsistent with the Documentation; (y) use of the Service in combination with any other product or service not provided by Workday; or (z) use of the Service in a manner not otherwise contemplated by this Agreement. If Customer is enjoined from using the Service or Workday reasonably believes it will be enjoined, Workday shall have the right, at its sole option, to obtain for Customer the right to continue use of the Service or to replace or modify the Service so that it is no longer infringing. If neither of the foregoing options is reasonably available to Workday, then use of the impacted portions of the Service may be terminated at Workday's option if and only if Workday is terminating use of the impacted portions of the Service to all other Workday customers affected by the Claim and Workday's sole liability (other than its obligation to defend and indemnify as set forth in this section 7) shall be to refund any prepaid fees for the Service that were to be provided after the effective date of termination, as well as any fees paid by Customer attributable to the enjoined portions of the Service for the period of time Customer was enjoined from use of the Service. In addition, Workday will not object to Customer's participation in the defense against any proposed injunction which would impact Customer's ability to utilize the Service.

8. Limitation of Liability.

8.1 LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT WITH RESPECT TO (i) WORKDAY'S INDEMNIFICATION OBLIGATIONS IN SECTION 7, (ii) RECKLESS MISCONDUCT, GROSS NEGLIGENCE, WILLFUL MISCONDUCT AND/OR FRAUD, (iii) WORKDAY'S REMEDIATION OBLIGATIONS IN SECTION 5.3; OR (iv) CUSTOMER'S PAYMENT OBLIGATIONS,

- (a) IN NO EVENT SHALL EITHER PARTY'S (OR WORKDAY'S AFFILIATES' OR THIRD PARTY LICENSORS') AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE FEES ACTUALLY PAID OR PAYABLE BY CUSTOMER UNDER THIS AGREEMENT DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD FOR THE SERVICE FROM WHICH THE CLAIM AROSE (OR, FOR A CLAIM ARISING BEFORE THE FIRST ANNIVERSARY OF THE EFFECTIVE DATE, THE AMOUNT PAID OR PAYABLE FOR THE FIRST TWELVE (12) MONTH PERIOD)
- (b) WORKDAY'S AGGREGATE LIABILITY FOR ITS BREACH OF THIS AGREEMENT (INCLUDING THE DATA PROCESSING EXHIBIT) RESULTING IN THE UNAUTHORIZED DISCLOSURE OF CUSTOMER DATA, OR BREACH OF ITS SECURITY, PRIVACY AND/OR CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT, SHALL NOT EXCEED THE FEES PAID OR PAYABLE BY CUSTOMER UNDER THIS AGREEMENT DURING THE IMMEDIATELY PRECEDING TWENTY-FOUR (24) MONTH PERIOD FOR THE SERVICE FROM WHICH THE CLAIM AROSE (OR, FOR A CLAIM ARISING BEFORE THE SECOND ANNIVERSARY OF THE EFFECTIVE DATE, THE AMOUNT PAID OR PAYABLE FOR THE FIRST TWENTY-FOUR (24) MONTH PERIOD).
- (c) For the purposes of 8.1(a) and (b) above, when the applicable Order Form does not state a separate price for the Service from which the claim arose, the price for the group of SKUs which includes the SKU from which the claim arose will be considered the price for the Service from which the claim arose.

8.2 EXCLUSION OF DAMAGES. EXCEPT WITH RESPECT TO AMOUNTS TO BE PAID BY EITHER PARTY PURSUANT TO A COURT AWARD (OTHER THAN A DEFAULT JUDGMENT) OR SETTLEMENT AS WELL AS THE DEFENSE COSTS UNDER THE INDEMNIFICATION OBLIGATIONS NO MATTER HOW SUCH DAMAGES MAY BE CHARACTERIZED, AND THE LOSS OF CUSTOMER DATA DUE TO THE FAILURE OF WORKDAY TO ADHERE TO ITS DATA BACKUP AND RESTORATION PROTOCOLS AS DESCRIBED IN THE SLA AND SECURITY EXHIBITS, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, OR FOR ANY LOST PROFITS, LOSS OF USE, COST OF DATA RECONSTRUCTION, COST OR PROCUREMENT OF SUBSTITUTE GOODS OR



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SERVICES, WHETHER IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS OR SUBCONTRACTORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. CUSTOMER WILL NOT ASSERT THAT ITS PAYMENT OBLIGATIONS AS SET FORTH IN AN ORDER FORM ARE EXCLUDED AS WORKDAY'S LOST PROFITS.

8.3 DIRECT DAMAGES. SUBJECT TO SECTION 8.1 AND NOTWITHSTANDING SECTION 8.2 ABOVE, THE PARTIES AGREE THAT WITH RESPECT TO WORKDAY'S BREACH OF ITS OBLIGATIONS SET FORTH IN THIS AGREEMENT, THE FOLLOWING SHALL BE CONSIDERED DIRECT DAMAGES AND WORKDAY SHALL REIMBURSE CUSTOMER FOR REASONABLE COSTS AND EXPENSES ACTUALLY PAID TO THIRD PARTIES FOR: (i) FINES AND PENALTIES IMPOSED BY GOVERNMENTAL AUTHORITY ARISING FROM SUCH BREACH; AND (iii) LEGAL FEES, INCLUDING REASONABLE ATTORNEY'S FEES, TO DEFEND AGAINST THIRD PARTY CLAIMS ARISING FROM SUCH BREACH AND FOR CLAIMS DEFENDED BY CUSTOMER, AMOUNTS PAID TO AFFECTED THIRD PARTIES AS DAMAGES OR SETTLEMENTS ARISING FROM SUCH BREACH.

9. Term and Termination.

9.1 Term of Agreement. The Term of this Agreement commences on the Effective Date and continues until the stated term in all Order Forms has expired or has otherwise been terminated, unless otherwise extended pursuant to the written agreement of the parties. Subscriptions to the Service commence on the date, and are for a period, as set forth in the applicable Order Form.

9.2 Termination. Subject to Customer's transition rights defined in this Section 9, either party may terminate this Agreement: (i) upon thirty (30) days prior written notice to the other party of a material breach by the other party if such breach remains uncured at the expiration of such notice period; or (ii) immediately in the event the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. In the event the Agreement is terminated, all Order Forms are simultaneously terminated. Upon any termination by Customer pursuant to this section, Workday shall refund Customer any prepaid fees for the affected Service that were to be provided after the effective date of termination.

9.3 Dispute Resolution. The parties agree that they would prefer to resolve disputes rather than invoke their termination rights under this Agreement. Accordingly, where a dispute or breach appears to be one that might be resolvable by the parties without resorting to termination, the parties will seek to resolve the dispute or breach in good faith and will, where appropriate, seek non-binding mediation of their dispute if the management of the parties is unable to resolve the dispute. Notwithstanding the foregoing, each party retains its right to seek injunctive relief at any time and to exercise its termination rights under this Agreement.

9.4 Effect of Termination. Upon any termination of this Agreement, and following any Transition Period Customer shall, as of the date of such termination, immediately cease accessing and otherwise utilizing the applicable Service (except as permitted under the section entitled "Retrieval of Customer Data") and Workday Confidential Information. Termination for any reason shall not relieve Customer of the obligation to pay any fees accrued or due and payable to Workday prior to the effective date of termination and termination for any reason other than for Workday's uncured material breach or the reasons set forth in Section 2.2 shall not relieve Customer of the obligation to pay all future amounts due under all order forms.

9.5 Retrieval of Customer Data. Upon written request by Customer made prior to any expiration or termination of this Agreement, Workday will make Customer Data and configuration data available to Customer through the Service in a Workday-supported, non-proprietary format solely for purposes of Customer retrieving Customer Data and configuration data for a period of up to sixty (60) days after such request is received by Workday. After such sixty (60) day period, Workday will have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, delete all Customer Data by deletion of Customer's Tenant; provided, however, that Workday will not be required to remove copies of the Customer Data from its backup media and servers until such time as the backup copies are scheduled to be deleted, provided further that in all cases Workday will continue to protect the Customer Data in accordance with this



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Agreement. The foregoing deletion obligation will be subject to any retention obligations imposed on Workday by Law. Additionally, during the Term of the Agreement, Customers may extract Customer Data using Workday's standard web services.

9.6 Transition Period before Final Termination. Upon any termination of the Agreement, Workday shall, upon Customer's request, continue to provide the Service to Customer (except where Workday is enjoined) pursuant to the terms of this Agreement for a transitional period of up to one (1) year (the "Transition Period"). Access to the Service during the Transition Period will be subject to the fees set out in the applicable Order Form, prorated on a monthly basis and payable in advance, based on the annual fees for the Service during calendar period of the Transition Period if the Order Form has fees for such calendar period, and for any portion of the Transition Period not covered by pre-negotiated fees on the Order Form, based upon the annual fees for the twelve month period immediately preceding the termination date plus an additional five percent (5%). During the Transition Period, Workday will provide cooperation and assistance as Customer may reasonably request to support an orderly transition to another provider of similar software, services, or to Customer's internal operations. Such cooperation and assistance will be limited to consulting regarding the Workday Service and will be subject to a fee based on Workday's then-current rates for consulting services and such services will be set out in a statement of work to a professional services agreement between the parties. Notwithstanding the foregoing, in the event of termination of this Agreement by Workday for breach by Customer, Workday may withhold the provision of transition Services and condition further performance upon (i) payment of undisputed fees then owed, (ii) prepayment of fees for further services, and (iii) receipt by Workday of an officer's certificate from Customer certifying ongoing compliance with the terms of this Agreement during the Transition Period.

9.7 Surviving Provisions. The following provisions of this Agreement shall not survive and will have no further force or effect following any termination or expiration of this Agreement and any Transition Period: (i) subsection (i) of Section 1.1 "Workday Obligations"; (ii) Section 3.2 "Grant of Rights"; and (iii) any Order Form(s). All other provisions of this Agreement shall survive any termination or expiration of this Agreement.

10. General Provisions.

10.1 Relationship of the Parties. The parties are independent contractors. This Agreement does not create nor is it intended to create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. There are no third-party beneficiaries to this Agreement.

10.2 Insurance. Workday will maintain during the entire Term of this Agreement, at its own expense, the types of insurance coverage specified below, on standard policy forms and with insurance companies with at least an A.M. Best Rating of A- VII authorized to do business in the jurisdictions where the Workday services are to be performed.

- (a) Workers' Compensation insurance prescribed by applicable local law and Employers Liability insurance with limits not less than \$1,000,000 per accident/per employee. This policy shall include a waiver of subrogation against Customer
- (b) Business Automobile Liability covering all vehicles that Workday owns, hires or leases with a limit of no less than \$1,000,000 (combined single limit for bodily injury and property damage) for each accident.
- (c) Commercial General Liability insurance including Contractual Liability Coverage, with coverage for products liability, completed operations, property damage and bodily injury, including death, with an aggregate limit of no less than \$2,000,000. This policy shall name Customer as an additional insured with respect to the provision of services provided under this Agreement. This policy shall include a waiver of subrogation against Customer.
- (d) Technology Professional Liability Errors & Omissions policy (which includes Cyber Risk coverage and Computer Security and Privacy Liability coverage) with a limit of no less than \$10,000,000 per occurrence and in the aggregate.
- (e) Crime policy with a limit of no less than \$5,000,000 per occurrence and in the aggregate.

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- (f) Excess Liability/Umbrella coverage with a limit of no less than \$9,000,000 per occurrence and in the aggregate (such limit may be achieved through increase of limits in underlying policies to reach the level of coverage shown here). This policy shall name Customer as an additional insured with respect to the provision of services provided under this Agreement. This policy shall include a waiver of subrogation against Customer.

Upon Customer's request, Workday agrees to deliver to Customer a certificate(s) of insurance evidencing the coverage specified in this Section. Such certificate(s) will contain a thirty (30) day prior notice of cancellation provision. Workday will be solely responsible for any deductible or self-insurance retentions. Such insurance coverage will be primary and any other valid insurance existing will be in excess of such primary insurance policies. The required insurance coverage and limits of liability set forth above shall not be construed as a limitation or waiver of any potential liability of satisfaction of any indemnification/hold harmless obligation of Workday.

10.3 Notices. All notices under this Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery; (ii) the third business day after first class mailing; or (iii) the second business day after sending by facsimile with telephonic confirmation of receipt. Notices to Workday shall be addressed to the attention of its General Counsel. Notices to Customer shall be addressed County Administrator, 1160 Civic Center Blvd, Suite A, Yuba City CA 95993 and . Customer's signatory of this Agreement 146 Garden Hwy, Yuba City CA 95991 with a copy to County Counsel, 1160 Civic Center Blvd, Suite C, Yuba City CA 95993. Each party may modify its recipient of notices by providing notice pursuant to this Agreement.

10.4 Waiver and Cumulative Remedies. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right or any other right. None of the provisions of this Agreement shall be considered waived by either party unless such waiver is specifically specified in writing. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

10.5 Force Majeure. Neither party shall be liable for any failure or delay in performance under this Agreement for causes beyond that party's reasonable control and occurring without that party's fault or negligence, including, but not limited to, acts of God, acts of government, flood, fire, civil unrest, acts of terror, strikes or other labor problems (other than those involving Workday or Customer employees, respectively), and/or, where Workday is in compliance with its security and backup obligations under this Agreement, computer attacks or malicious acts, such as attacks on or through the Internet, any Internet service provider, telecommunications or hosting facility. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused. Each party will reasonably endeavor to resume its performance under this Agreement as soon as possible following a *force majeure* situation and Workday will expend the same level of effort to resume performance to Customer that it expends for its other similarly-situated customers.

10.6 Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without a prior executed assignment agreement signed by the non-assigning party (which consent shall not be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms) without consent of the other party in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets (an "M&A assignment") so long as the assignee agrees to be bound by all of the terms of this Agreement and all past due fees are paid in full. In the event of an M&A assignment, the non-assigning party shall be entitled to request that the assignee entity provide adequate assurances that it has the requisite personnel, assets, expertise, and experience to provide the Service and comply with this Agreement. Failure to provide such assurances may be treated as a material breach of this Agreement. Any attempt by a party to assign its rights or obligations under this Agreement other than as permitted by this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

10.7 Governing Law. This Agreement shall be governed exclusively by the laws of the State of California. The parties agree the venue of any dispute will be the State and Federal Courts for the County of Sutter, California.

10.8 Export. Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Service. Without limiting the generality of the foregoing, Customer shall not make

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the Service available to any person or entity that: (i) is located in a country that is subject to a U.S. government embargo; (ii) is listed on any U.S. government list of prohibited or restricted parties; or (iii) is engaged in activities directly or indirectly related to the proliferation of weapons of mass destruction.

10.9 Federal Government End Use Provisions (if applicable). Workday provides the Service, including related software and technology, for federal government end use solely in accordance with the following: Government technical data and software rights related to the Service include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202.3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a “need for” right not conveyed under these terms, it must negotiate with Workday to determine whether there are acceptable terms for transferring additional rights. A mutually acceptable addendum specifically conveying such rights must be executed by the parties in order to convey such rights beyond those set forth herein.

10.10 Publicity. Except as set forth herein, Workday shall not use Customer's name, logos or trademarks, without the prior written consent of Customer, in any written press releases, advertisements and/or marketing materials. Notwithstanding the foregoing, Workday may use Customer's name and logo in lists of customers and on its website, including, but not limited to, Workday's community portal; however, such usage shall not be classified as an advertisement but only identification as an entity who receives the Service from Workday. For the avoidance of doubt, this section does not prohibit Workday from referencing Customer's name in a verbal format.

10.11 Miscellaneous. This Agreement, including all exhibits and addenda hereto and all Order Forms, constitutes the entire agreement between the parties with respect to the subject matter hereof. Current copies of Workday's SLA, Security Exhibit, and Data Processing Exhibit are attached, but in each case, the parties recognize that these Exhibits reflect standard Workday policies and may change over time, subject to the requirement in Section 6.1(ii) that changes will not materially degrade the Service or security of the Service and the requirement that the Customer will not be subject to any additional obligations as a result of the changes. Customer will have access to the most current version of such Exhibits. In the event of a conflict or where an Order Form provides more specific detail than this Agreement, the provisions of an Order Form shall take precedence over provisions of the body of this Agreement and over any other Exhibit or Attachment provided, however, that the Agreement shall take precedence with respect to all sections unless the Order Form clearly states that it shall take priority and the Order Form was signed by Customer's signatory. Each of the attached Order Forms is a separately executed agreement subject to this Agreement that may be separately amended without amending this Master Subscription Agreement. This Agreement supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void. This Agreement may be executed in counterparts, which taken together shall form one binding legal instrument. The parties hereby consent to the use of electronic signatures in connection with the execution of this agreement, and further agree that electronic signatures to this agreement shall be legally binding with the same force and effect as manually executed signatures, provided that such signatures must be made using a technology designed for electronic signatures and a mere email which appears to state consent to an agreement or action shall not be considered an electronic signature.

10.12 Availability of Funds. Order Forms may include subscription periods beyond Customer's current fiscal period. For future fiscal periods that are covered by an executed subscription, Customer agrees to include a request for funds to pay for such subscription in its normal annual budget request. Customer reasonably believes, barring unforeseen circumstances or events, that sufficient funds will lawfully be appropriated to satisfy its obligations under this Agreement. If Customer is appropriated insufficient funds, by appropriation, appropriation limitation or grant, to continue payments under

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this Agreement. Customer may terminate this Agreement by giving Workday not less than thirty (30) days' prior written notice. Upon termination Customer will remit all amounts due and all costs reasonably incurred through the date of termination and, to the extent of lawfully available funds, through the end of the then-current fiscal period, providing Service will continue through the end of the then-current fiscal period and for the full duration of any subsequent Transition Period for which funds are available. Upon Workday's reasonable request, Customer will provide Workday with information as to funding status for its next subscription payment(s).

10.13 Audit Financial Billing. During the Term of this Agreement but not more frequently than once per year, Workday shall make available to Customer or its chosen independent third-party auditor (or federal or state department auditor having monitoring or reviewing authority over Customer), for examination those financial books, records, and files of Workday that are necessary for Customer to verify Workday's charges for the Service provided under any Order Form(s) issued hereunder. Workday shall be subject to examination and/or audit to the extent set forth in law and shall comply with all program and fiscal reporting requirements set forth by law as described more fully in the Data Processing Exhibit. Workday shall maintain complete and accurate records as is reasonably necessary to substantiate such charges for at least five (5) years after such charges are invoiced. Customer shall provide Workday with reasonable notice prior to conducting such financial audit and the parties shall mutually agree upon the timing of such financial audit which shall be conducted in a manner that is least disruptive to Workday's business operations. Such right shall not extend to or require on-site audits of Workday's operations or third-party hosting facilities, disclosure of any confidential information of any other Workday customer, or Workday's payroll records or other financial records not related to Service fees invoiced to Customer.

10.14 California Labor Code Requirements. Workday is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Workday agrees to fully comply with such Prevailing Wage Laws, if applicable. Workday shall defend, indemnify and hold Customer, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon Workday and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors for work performed in California.

10.15 Verification of Employment Eligibility. By executing this Agreement, Workday verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

10.16 Equal Opportunity Employment. Workday represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of, as applicable under the law of the jurisdiction where employment occurs, race, religion, color, national origin, ancestry, sex, age, or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

10.17 Limitation of Agreement. This Agreement is limited to and includes only the services and work described herein.

10.18 Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than Customer and Workday.

10.19 Severability. The unenforceability, invalidity, or illegality of provision(s) of this Agreement shall not render the remaining provisions unenforceable, invalid, or illegal.

10.20 Customer's Right to Employ Other Consultants. Customer reserves its right to employ other entities in connection with this Agreement and other projects.

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10.21 Prohibited Interests. Workday represents that it has not employed nor retained any company or person, other than a bona fide employee working solely for Workday, to solicit or secure this Agreement. Further, Workday represents that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Workday, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this representation, Customer shall have the right to rescind this Agreement without liability. Upon Customer's request, Workday will include the following statement on Order Forms that are not executed contemporaneously with this Agreement, "Workday represents that it has not employed nor retained any company or person, other than a bona fide employee working solely for Workday, to solicit or secure this Order Form. Further, Workday represents that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Workday, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Order Form."

11. Definitions.

"Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control by either party or in the case of Customer, Affiliate also means any special district or local government entity to which Customer provides accounting, financial reporting, payroll or human resources services. For purposes of the preceding sentence, "control" means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"Agreement" means this Master Subscription Agreement, including the Workday Production Support and Service Level Availability Policy (as may be updated from time to time), any exhibits or attachments hereto, and any fully executed Order Form.

"Authorized Parties" means Customer's or an authorized Affiliate's Employees and third party providers authorized to access Customer's Tenants and/or to receive Customer Data by Customer (i) in writing, (ii) through the Service's security designation, or (iii) by system integration or other data exchange process.

"Confidential Information" means (a) any software utilized by Workday in the provision of the Service and its respective source code; (b) Customer Data; (c) each party's business or technical information, including but not limited to the Documentation, training materials, any information relating to software plans, designs, costs, prices and names, finances, marketing plans, business opportunities, personnel, research, development or know-how that is designated by the disclosing party as "confidential" or "proprietary" or the receiving party knows or should reasonably know is confidential or proprietary; and (d) the terms, conditions and pricing of this Agreement (but not its existence or parties).

"Customer Data" means the electronic data or information submitted by Customer or Authorized Parties to the Service.

"Customer Input" means suggestions, enhancement requests, recommendations or other feedback provided by Customer, its Employees and Authorized Parties relating to the operation or functionality of the Service.

"Documentation" means Workday's electronic Administrator Guide for the Service (formerly known as the User Guide), which may be updated by Workday from time to time.

"Employee" or "Worker" means actual or prospective employees, students, consultants, contingent workers, independent contractors, and retirees of Customer and its Affiliates whose active business record(s) are or may be managed by the Service and for which a subscription to the Service has been purchased pursuant to an Order Form. The Order Form defines how the Employee count is calculated for subscription fee purposes.

"Improvements" means all improvements, updates, enhancements, error corrections, bug fixes, release notes, upgrades and changes to the Service and Documentation, as developed by Workday and made generally available for Production use without a separate charge to Customers.

"Intellectual Property Rights" means any and all common law, statutory and other industrial property rights and intellectual property rights, including copyrights, trademarks, trade secrets, patents and other proprietary rights issued, honored or enforceable under any applicable laws anywhere in the world, and all moral rights related thereto.



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"Law" means any local, state, national and/or foreign law, treaties, and/or regulations applicable to a respective party.

"Malicious Code" means viruses, worms, time bombs, Trojan horses and other malicious code, files, scripts, agents or programs.

"Order Form" means the separate ordering documents under which Customer subscribes to the Workday Service pursuant to this Agreement that have been fully executed by the parties.

"Personal Data" means any information that is related to an identified or identifiable individual and has been provided by Customer or its Affiliates as Customer Data within the Workday Service to enable Workday to Process the data on its behalf.

"Production" means the Customer's or an Employee's use of or Workday's written verification of the availability of the Service (i) to administer Employees; (ii) to generate data for Customer's books/records; or (iii) in any decision support capacity.

"Security Breach" means (i) any actual or reasonably suspected unauthorized use of, loss of, access to or disclosure of, Customer Data; provided that an incidental disclosure of Customer Data to an Authorized Party or Workday, or incidental access to Customer Data by an Authorized Party or Workday, where no reasonable suspicion exists that such disclosure or access involves theft, or is fraudulent, criminal or malicious in nature, shall not be considered a "Security Breach" for purposes of this definition, unless such incidental disclosure or incidental access triggers a notification obligation under any applicable Law and (ii) any security breach (or substantially similar term) as defined by applicable Law.

"Service" means Workday's software-as-a-service applications as described in the Documentation and subscribed to under an Order Form.

"SLA" means the *Workday Production Support and Service Level Availability Policy*, which may be updated by Workday from time to time. No update shall materially diminish Workday's responsibilities under the Workday Production Support and Service Level Availability Policy.

"Subscription Service Fee" means all amounts invoiced and payable by Customer for the Service.

"Tenant" means a unique instance of the Service, with a separate set of customer data held by Workday in a logically separated database (i.e., a database segregated through password-controlled access).

"Tenant Base Name" is a naming convention that will be used in all of the tenant URLs provided by Workday, as specified in Customer's initial Order Form subscribing to the Service, and which shall remain constant throughout the Term.

"Term" has the meaning set forth in Section 9.1.


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Exhibit A WORKDAY SLA SERVICE CREDIT EXHIBIT

In the event of a failure by Workday to meet the Service Availability and Service Response minimums as set forth in the SLA, as Customer's sole and exclusive financial remedy for such failure, at Customer's request, Workday shall provide service credits in accordance with the following:

- a. First month of missed availability or response minimum: The parties shall meet to discuss possible corrective actions
- b. Second month in any rolling six (6) month period: 10% of the Subscription Fee paid for the applicable month for the affected Service application
- c. Third month in any rolling six (6) month period: 20% of the Subscription Fee paid for the applicable month for the affected Service application
- d. Fourth month in any rolling six (6) month period: 30% of the Subscription Fee paid for the applicable month for the affected Service application
- e. Fifth month in any rolling six (6) month period: 40% of the Subscription Fee paid for the applicable month for the affected Service application
- f. Sixth month in any rolling six (6) month period: 50% of the Subscription Fee paid for the applicable month for the affected Service application
- g. More than three months in any rolling six (6) month period: Within sixty (60) days following the date that Workday notifies Customer of such failure through its posted SLA attainment information Customer shall have the option to terminate the entire Agreement and upon such termination Customer shall receive a refund of all prepaid subscription fees that are unearned as of the date such termination is effective.
- h. If more than one of the above (a through g) is triggered, Customer will be eligible for the greater amount for the applicable month only. Credits shall be deducted from subsequent invoices for subscription fees or other fees or, upon expiration or termination of the Agreement, paid to Customer directly.

EXHIBIT B – Sutter County Information Technology Security Policy

	<h2>Sutter County Administrative Policies & Procedures</h2>	
POLICY:	TITLE: Information Technology Security Policy	
SECTION:	ADOPTED:	
RESOLUTION:	EFFECTIVE:	
SPONSORING DEPARTMENT: General Services		ATTACHMENTS:
SUPERCEDES:		PAGES: 2

Purpose:

This policy establishes the high-level Organizational Information Security Policies for ensuring the protection of the County of Sutter’s technology and information assets. These Security Policies should be evolving and frequently updated and addressed. The purpose of these policies should also be directed to specify mechanisms through which the policies can be met. The purpose of the policies will also be to help establish security frameworks, metrics, and governance and audit/reporting processes.

Authority

Sutter County Board of Supervisors

Applicability:

This policy is applicable to all Information Technology (IT) resources owned or operated by the County of Sutter. Any information, not specifically identified as the property of other parties, that is transmitted or stored on County of Sutter IT resources (including e-mail, messages and files) is the property of the County of Sutter. All County of Sutter employees, both permanent and temporary, and all contractors, consultants, vendors, interns, volunteers and others who use County of Sutter IT resources are responsible for adhering to this policy.

Intent:

It is the intention of this policy to initially adopt the California Counties Information Services Directors Association (CCISDA) California Counties IT Policies for the Countywide Information Security Program as a starting point and initial reference for the County of Sutter Security Policies. This framework outlines security policies in the following areas: Access Control, Awareness and Training, Audit and Accountability, Security Assessment and Authorization, Configuration Management, Contingency Planning, Identification and Authentication, Incident Response, Maintenance, Media Protection, Physical and Environmental Protection, Planning, Personnel Security, Risk Assessment, System and Services Acquisition, System and Communications Protection, System and Information Integrity.

General Policy:

The Information Security policy of the County of Sutter serves to be consistent with industry best-practices as articulated by the California Counties Information Services Directors Association (CCISDA) and the National Institute of Standards and Technology (NIST). The official Information Security Policy of the County of Sutter is that "It shall be the responsibility of the IT Division to provide adequate protection, confidentiality, continued availability and integrity of all County of Sutter information, software, networks, systems and business assets which rely on Information Technology, to all authorized members of staff, the County of Sutter organization and any stakeholders with a vested interest in the County of Sutter mission.

