COUNTY OF MONTEREY STANDARD AGREEMENT
(NOT TO EXCEED $100,000)

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:

PhoneFactor, A Microsoft Company
,
(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1.0   GENERAL DESCRIPTION.

1.01   The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

Provide enterprise software subscription, maintenance, and support for the PhoneFactor application for the provision of secure pins for remote network access by authorized County employees.

2.0   PAYMENT PROVISIONS.

2.01   County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement is not to exceed the sum of $ 18,495.00   .

3.0   TERM OF AGREEMENT.

3.01   The term of this Agreement is from   May 15, 2013   to   June 30, 2014   , unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

3.02   The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

4.0   SCOPE OF SERVICES AND ADDITIONAL PROVISIONS.

4.01   The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A   Scope of Services/Payment Provisions

Exhibit B   Software License Terms and Conditions
Exhbit C   Amendment to County of Monterey Standard Agreement
Exhibit D   Insurance Exceptions to Agreement

5.0 PERFORMANCE STANDARDS.

5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.

5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6.0 PAYMENT CONDITIONS.

6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided herein. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.

6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.

6.03 Invoice amounts shall be billed directly to the ordering department.

6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

7.0 TERMINATION.

7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of

CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

7.03   The County's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

8.0   INDEMNIFICATION.

8.01   Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor is obligated to indemnify, defend and hold harmless the County under this Agreement.

9.0   INSURANCE REQUIREMENTS.

9.01   Evidence of Coverage:
Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

9.02   Qualifying Insurers:
All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

9.03   Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than $1,000,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Business Automobile Liability Insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than $500,000 per occurrence.

(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than $1,000,000 each person, $1,000,000 each accident and $1,000,000 each disease.

(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Professional Liability Insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than $1,000,000 per claim and $2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

9.04   Other Requirements:

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of

three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall **provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds** with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that **such insurance is primary** insurance to any insurance or self-insurance maintained by the County and that the insurance of **the Additional Insureds shall not be called upon to contribute** to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

10.0 RECORDS AND CONFIDENTIALITY.

10.01 Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by

CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.

10.02 <u>County Records.</u>   When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.

10.03 <u>Maintenance of Records.</u>   CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.

10.04 <u>Access to and Audit of Records.</u> The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of $10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

10.05 <u>Royalties and Inventions.</u>   County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11.0 NON-DISCRIMINATION.

11.01 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS.

12.01 If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall

be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13.0   INDEPENDENT CONTRACTOR.

13.01   In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

14.0   NOTICES.

14.01   Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	**FOR CONTRACTOR:**
Dianah Neff - Director of Information Technology	Steve Kang - Regional Sales Director
Name and Title	Name and Title
1590 Moffett Street Salinas, Ca. 93905	7301 W. 129th STreet, Suite 200 Overland Park, KS 66123
Address	Address
831-759-6923	913-499-4148
Phone	Phone

15.0   MISCELLANEOUS PROVISIONS.

15.01   Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.

15.02   Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.

15.03   Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.

15.04   Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.

15.05   Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.

15.06   Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

15.07   Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.

15.08   Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.

15.09   Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.

15.10   Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.

15.11   Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.

15.12   Non-exclusive Agreement. This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.

15.13   Construction of Agreement. The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.

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

15.15   Authority.   Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.

15.16   Integration.   This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.

15.17   Interpretation of Conflicting Provisions.   In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

--------------------*This section left blank intentionally*----------------

16.0 SIGNATURE PAGE.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY

By: _____
Contracts/Purchasing Officer

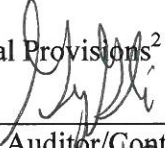Date: _____7-11-13_____

By: _____
Department Head (if applicable)

Date: _____

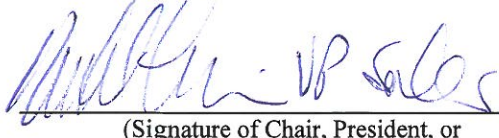Approved as to Form[1]

By: _____
County Counsel

Date: _____

Approved as to Fiscal Provisions[2]

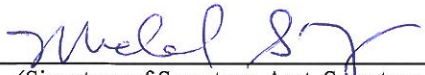By: _____
Auditor/Controller

Date: _____

CONTRACTOR

_____PhoneFactor, A Microsoft Company_____
Contractor's Business Name*

By: _____
(Signature of Chair, President, or Vice-President)*

_____Michael Levin_____
Name and Title

Date: _____5/15/13_____

By: _____
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)*

_____Michael S. Yin / CFO_____
Name and Title

Date: _____5/15/13_____

Approved as to Liability Provisions[3]

By: _____
Risk Management

Date: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

[1]Approval by County Counsel is required
[2]Approval by Auditor/Controller is required
[3]Approval by Risk Management is required only if changes are made in sections 7 or 8

EXHIBIT A
SCOPE OF SERVICES/PAYMENT PROVISIONS

I. Scope of Services

PhoneFactor is a two-factor authentication system which utilizes automated phone calls to verify a user's identity when logging into the county network remotely. Application will allow for multiple methods of accessing the county network remotely to include phone calls, text message, push notifications, and a passcode option. The two-factor authentication system will increase security for County users accessing the County network remotely. Contractor shall provide software license subscription and Platinum Support for the PhoneFactor Enterprise Platform. The **monthly user limit will be 500.**

II. Licensing and Support Services

A. Enterprise Platform – Extended Edition which shall provide County with the following capabilities:

- Add Secure, Out-Of-Band Authentication that's Easy to Setup and Use

- Authenticate Users in the Continental US and Canada at No Charge

- Synchronize Agents For Redundancy and Real-Time Fail Over

- Enable Call Rollover to a Backup Number

- Allow Users to Change their Phone Number

- Access Online Portal and Network Logs for Auditing and Reporting

- Add Out-Of-Band Authentication for Unlimited Applications

- Enable PIN Security for a Third Layer of Protection

- Send Real-Time Alerts of Fraudulent Activity

- Centralized Reporting for Auditing/Compliance

- Ensure High Availability with Redundancy and Fail Over

- Configure for Leading Applications in Minutes

- Seamlessly Integrate with Existing Websites and Transactions

- Streamlines User Provisioning and Management

- Simplifies User Enrollment and Support

- Protects High-Risk Transactions from Sophisticated Attacks

- Leverages PhoneFactor Across your Entire Enterprise

B. Definitions

- "Authentication" means a single attempt by the Service to authenticate a User regardless of whether the authentication attempt is successful. The standard length of an authentication call will not exceed 30 seconds (from the time the call is answered by the User to when the call is terminated by the User).

- "Agent" means the Software that is installed and runs on Client's computer;

- "Authentication Limit" means the maximum number of Authentications that the Service will provide to Client during each 12 month period, beginning from the Effective Date, of the Term of this Agreement.

- "Initial Term" means one year from the Effective Date unless otherwise stated in an Order Form;

- "Monthly User Limit" means the number of Users who are permitted to receive an Authentication from the Service during any individual calendar month during the Term of this Agreement.

- "PhoneFactor Technology" means all of PhoneFactor's proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) relating to the Service;

- "Service(s)" means the two-factor authentication service provided by PhoneFactor, Inc. which uses the telephone as a second factor of authentication, and which is sold by PhoneFactor, Inc under the product name PhoneFactor, and any related support or maintenance programs.

- "Software" means the computer programs in machine-readable object code, intermediate code, interpreted code or source code form, including printed listings of code, copies on magnetic media, documentation, and related information, and including the PhoneFactor Software Development Kit ("SDK") relating to the Service. For purposes of this Agreement, Software shall include any copies made by Client,

- "User(s)" means an individual authorized by Client and PhoneFactor to use the Service who receives an Authentication from the Service during the term of the Agreement.

C. Key Features of the Software

- PIN Security - Add a third layer of protection by requiring users to enter a personal identification number (PIN) to authenticate. Administrators control which users are enabled for PIN security and set rules to enforce PIN strength and expiration policies.
- Real-Time Fraud Alerts - Receive instant notification if users suspect fraudulent activity on their account. Users simply choose the fraud alert option during the authentication call,

blocking access to their account in real-time and triggering an e-mail to the company's IT or fraud investigation team.

- Application Integration- PhoneFactor offers out-of-the-box integration with VPNs, Outlook Web Access, Citrix Web Interface, Terminal Services, IIS websites, and any RADIUS application. A wizard simplifies the configuration process, which takes just minutes.

- User Import - Import users from your existing Active Directory or any CSV file. Instantly enable users with phone numbers and send them an automated welcome e-mail.

- Fail Over Protection and Load-Balancing - Real-time synchronization between two fully functional PhoneFactor agents allows for a primary and backup server or operation of redundant web servers.

- Customized User Experience - Customize the PhoneFactor experience for your users. Increase usability with phone prompts specific to your company and home language, identify the authentication call as originating from your company, and customize the automated welcome e-mail that is sent to users.

- Advanced Calling Options - PhoneFactor can reach users wherever they are with support for direct dial to any home, cell, or work number as well as corporate phone menus for users with extensions. If a user can't be reached at their primary number, the system can automatically dial the user's alternate phone number.

- User Phone and PIN Management - Users can manage their own phone and PIN changes from the phone menu during an authentication call. If the user's PIN has expired, they will be prompted to enter a new PIN to complete the authentication.

- Centralized Reporting and Management - An online Management Portal offers an enterprise-wide view of users, authentications, and agents. All configuration and user changes are logged to a Syslog Server or PhoneFactor log file for reporting and auditing.

- Web Plug-Ins - Simple web plug-ins offer easy integration with existing websites and online transactions. Plug-ins are available for .NET, Java, Ruby, Perl, and PHP via the Web Software Development Kit (SDK).

- User Provisioning and Management - Leverage your existing directory system(s) to auto-enable new users and update existing users. Configure Active Directory or LDAP organizational units, security groups or specific users to synchronize – each with their own set of synchronization and security rules.

- User Enrollment - Direct users to the User Portal to enroll in PhoneFactor. By completing two quick steps – validating their phone number and setting security questions – the user will be enabled for PhoneFactor. After enrolling, users can login to the User Portal at any time to change their phone number or PIN.

- User Management for Help Desks - Enable IT administrators or help desk staff to manage user phone and PIN changes and create a one-time bypass from a simple web-based interface. Administrators can also add new users and disable existing users.

- Unlimited Enterprise Applications - Enable two-factor authentication across your entire enterprise. Authenticate directly to your enterprise applications, use a remote authentication system like RADIUS, or add to a single sign-on solution like those offered by Imprivata and Citrix.

- Unlimited Websites - Secure all of your web properties by enabling PhoneFactor for an unlimited number of websites. Maintain pre-production environments with multiple sites and servers for development and testing. Maximize performance and uptime by installing PhoneFactor to your web clusters.

- Advanced Network Configurations - Maximize performance and uptime by extending redundancy and fail over capabilities across an unlimited number of PhoneFactor agents. Deploy PhoneFactor in your Citrix and IIS server farms or remote offices across a wan. Support multiple groups of synchronized agents for additional flexibility.

- Custom Integrations - The Web Service SDK provides an interface for integrating the PhoneFactor Agent, including directory integration, user provisioning, and user management, into any application. The Web Service SDK uses the PhoneFactor Agent as the data store, making integration much easier with less modification to the application with which it is being integrated.

D. Description of Platinum Support

- With Platinum support you get up to 10 support contacts As used herein "support contacts" means and refers to those persons identified in the PhoneFactor setup as Client's approved contact persons, PhoneFactor shall update Client's designated support contacts upon client's reasonable request. Platinum support is available M-F 8AM to 6PM CST via email excluding holidays and 24/7 via phone. Platinum support has the same e-mail availability as standard support; however phone support is available 24/7 .Platinum customers will receive a response will get a response with-in 2 hours, 24/7.

- Platinum support customers are also assigned a specific Technical Account Manager (TAM) who will monitor their account and have routine monthly calls with them. These are assigned at Signing by the Customer Service Engineering Manager. The initial intro call is scheduled by the sales rep within 3 business days of the customer signing. The TAM then sends a welcome e-mail to the customer that has the support contact information as well as the TAMs contact information.

- Support Contacts are designated via the PhoneFactor Management Portal by the Client. Support contracts can contact support via e-mail at support@phonefactor.com or via phone at (877).668-6536Platinum customers can get expedited support for after hour support by calling the Platinum support line at 800-655-4240.

- All support issues are logged into the Salesforce Customer Management system by the TAM. Issues are then escalated according to their severity with regular status updated provided to the customer. Platinum support offers and expedited escalation schedule, as shown below. PhoneFactor shall use commercially reasonable efforts and due diligence to provide a resolution of problems within a commercially reasonable period.

- Escalation Schedule will be as follows:

Problem Severity Level	Platinum
Severity 1 – Service is down or unavailable and no workaround exists.	Immediate escalation to support engineering team. • Technical Account Manager and Support Manager receive immediate notification. • Status updates to the client every 2 hours.
Severity 2 – Service is functional, but usability is significantly degraded, Implementation issues.	Escalation to support engineering team after one business day. • Technical Account Manager receives immediate notification. Support Manager is notified after one business day. • Status updates to the client daily.
Severity 3 – Service is affected, but the impacts are minimal and/or a viable workaround exists.	Escalation to support engineering team after two business days. • Technical Account Manager receives notification after one business day
Severity 4 – General questions, and other inquiries.	PhoneFactor Support strives to quickly address all support inquiries. The majority of issues are resolved by the originating support technician

III. Term of the Agreement

The term of this Agreement shall be from **May 15, 2013 – June 30, 2014** unless sooner terminated pursuant to the terms of this Agreement.

IV. Schedule of Rates

The following table reflects the breakdown of costs for the licensing and support:

Description	Monthly User Limit	$ per user	Term	Subtotal
PhoneFactor Extended Edition	500	$ 35.00	1 Year	$17,500
Platinum Support			1 Year	$ 995
Total Yearly Software Subscription and Support				**$18,495**

V. Payment Provisions

- For the services described in this Agreement, the maximum obligation of the County will be **$18,495.** The payment conditions as specified in Section 6 of the body of this Agreement shall apply.

- Invoices shall be mailed to:

Monterey County Information Technology
1590 Moffett Street
Salinas, Ca. 93905
Attn: Accounts Payable

PhoneFactor Software Licensing Subscription
and Support Agreement

EXHIBIT B
SOFTWARE LICENSE TERMS AND CONDITIONS

I. PhoneFactor Software License Subscription and Support Terms and Conditions

A. The following licensing language shall be added to the agreement. CONTRACTOR shall be interchangeable with PhoneFactor and County shall be interchangeable with Client in the following language.

B. PhoneFactor hereby grants Client a non-exclusive, non-transferable, worldwide right to use the version or specific edition of the Service as described Exhibit A of this Agreement, solely for Client's own internal business purposes, subject to the terms and conditions of this Agreement, including any applicable Order Form. All rights not expressly granted to Client are reserved by PhoneFactor.

C. PhoneFactor hereby grants Client a non-exclusive, non-transferable, worldwide license to use the Software provided by PhoneFactor in conjunction with the Service exclusively for the purpose of using the specific version or edition of the Service described in the Order Form solely for Client's own internal business purposes, subject to the terms and conditions of this Agreement, including any applicable Order Form.

D. Client may not use the Service or Software if Client is a direct competitor of PhoneFactor, except with PhoneFactor's prior written consent. In addition, Client may not use the Service or Software for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes.

E. Client shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or Software in any way; (ii) modify or make derivative works based upon the Service or Software; or (iii) reverse engineer, decompile, disassemble or modify the Service or Software; (iv) access the Service or Software in order to build a competitive product or service, (v) build a product using similar ideas, features, functions or graphics of the Service or Software, or (vi) copy any ideas, features, functions or graphics of the Service or Software.

F. Client's usage of the Service may not exceed any usage limit specified on any applicable Order Form, and such limit may include a limit on the number of Users and/or the number or Authentications, or other types of limits.

G. Intellectual Property Ownership

- PhoneFactor alone shall own all right, title and interest, including all related Intellectual Property Rights, in and to the PhoneFactor Technology, the Service, the Software, and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Client or any other party relating to the Service. This Agreement is not a sale and does not convey to Client any rights of ownership in or related to the Service, the Software, the PhoneFactor Technology or the Intellectual Property Rights owned by PhoneFactor.

- Client agrees that: (i) no license, right or interest in any trademark, trade name, or service mark of PhoneFactor or any third party is granted under this Agreement; (ii) Client will not remove or destroy any of the Service's proprietary, trademark or copyright legends or markings; and (iii) all existing and future copyright, patent, trademark, or other intellectual property rights arising out of or related to the Service shall remain the sole property of PhoneFactor.

H. Service Availability, Updates and Support

- Availability and support of the Service shall be in accordance with the Service Level in Exhibit A, Section II.C.

- Section PhoneFactor has no obligation to provide updates or any other modifications to the Service, but PhoneFactor may update, upgrade, enhance, alter, or otherwise modify the Services or its underlying elements at any time without notice.

EXHIBIT C
AMENDMENT TO COUNTY OF MONTEREY STANDARD AGREEMENT

The County of Monterey Standard Agreement (Not to Exceed $100,000) is hereby amended as follows:

1. Section 3.02 is modified as follows: The following shall be added at the end of the paragraph. "Notwithstanding the aforementioned, no refund shall be given and all payments shall be due upon cancellation without cause. Cancellation based upon failure to deliver service or breach of contract shall be the only justification for a pro-rated refund."

2. Section 5.03 is modified as follows: The paragraph shall be deleted as this does not apply to the service being provided.

3. Section 6.04 is modified as follows: The first two sentences shall be deleted and replaced with the following. "CONTRACTOR shall submit an invoice for the prepaid services with all information pertinent to the invoice."

4. Section 7.01 is modified as follows: The last sentence in the paragraph shall be deleted. The following shall be added at the end of the paragraph. "Notwithstanding the aforementioned, no refund shall be given and all payments shall be due upon cancellation."

5. Section 7.02 is modified as follows: The last two sentences in the paragraph shall be deleted. The following shall be added at the end of the paragraph. "If County terminates this Agreement for good cause, then the CONTRACTOR shall issue a refund of prorated funds to the County."

6. Section 9.01 shall be modified as follows: "Evidence of Coverage Contractor, a Microsoft company, is covered by Microsoft and shall provide a letter of self insured from Microsoft Corporation upon the execution of the Agreement."

7. Section 9.04 is modified as follows: Paragraphs three, four and five shall be deleted and the following shall be added at the end of paragraph two. "The above notwithstanding, PhoneFactor, a Microsoft company, may at its option, meet the insurance requirements set forth in this agreement via commercial insurance, self- insurance, alternative risk financing solutions or a combination of these options."

8. Section 10.05 shall be deleted from the agreement.

9. The following licensing language shall be added to the agreement. CONTRACTOR shall be interchangeable with PhoneFactor and County shall be interchangeable with Client in the following language.

EXHIBIT D
INSURANCE EXCEPTIONS TO AGREEMENT

The following items contained in Section 9.03 of the Agreement are identified for exemption from this Agreement for the reasons stated below:

9.03 Business Automobile Liability Insurance

CONTRACTOR does not provide on- site service therefore commercial automobile liability is not needed for the performance of this Agreement.

9.03 Professional Liability Insurance

This Agreement is for software subscription and software support performed by CONTRACTOR under the terms of this Agreement and are not regulated by the California Business and Professions Code.