AGREEMENT FOR SPECIAL SERVICES

MERCED COUNTY
CONTRACT NO. 2015109

THIS AGREEMENT, is made and entered into by and between the County of Merced, a political subdivision of the State of California, (hereinafter referred to as "County"), and AMS.NET, Inc., a Delaware Corporation, located at 502 Commerce Way, Livermore, California, 94551 (hereinafter referred to as "Contractor").

WHEREAS, the County desires to retain Contractor to perform the services in connection with the Fast Open Contracts Utilization Services (FOCUS), pursuant to Government Code Sections 25330-25338; and,

WHEREAS, the Contractor represents it has considerable knowledge and experience relating to the performance of such services; and,

WHEREAS, the parties desire to set forth herein the terms and conditions under which said services shall be furnished.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereby agree as follows:

1. SCOPE OF WORK

1.1 FOCUS Program Overview

The purpose of this FOCUS Contract will be to provide the means for counties, cities, schools, special districts and other governmental entities in California and nationally to purchase their needed telecommunications technology solutions through a formally bid contractual relationship. FOCUS also provides the means for governments to reduce their costs of procurement while leveraging their dollars with other governments to achieve greater buying power. FOCUS offers the possibility of choosing more than one provider in each category. Further, this competitively bid program offers an alternative to existing non-competitively bid programs that may charge the buyer for administrative handling.

1.2 FOCUS Program Design for Contractor

The program design shall incorporate the principles as they apply to the following awarded telecommunications technology categories:

Communications Services:

- Call Center Solutions (with ACD)
- Emergency Notification Solutions (Reverse 911)
- Engineering/Consulting Services
- Integrated Voice Response (IVR)
- Voice over Internet Protocol (VOIP)
- Unified Messaging (UM)
- Telecommunications Systems (PBX)
- Telephone Handsets
- Voice Mail Solutions
- Wireless Voice Communication Services

Infrastructure:
- Battery Backup Systems
- Cabling Services
- Energy Auditing and Management Solutions

Enterprise Mobility Solutions:
- Mobile Device Management
- Mobile Devices (Tablets)
- Mobile Applications

Maintenance Services

Network & Enterprise Security Solutions:
- Firewall & Virtual Private Network (VPN)
- Intrusion Detection/Prevention Solutions
- Network, Host & Enterprise Management Solutions
- Transport Solutions (PRI, MPLS, Super-trunks, CO Business Lines, Optical, Satellite, Wireless)
- Video Solutions
- Wireless Solutions (Wi-Fi)

E-Government:
- Web Site Analytics
- Web Site Content Management Solutions
- Web Site Design, Development, Hosting Services
- Web Site Development Tools
- Web Site Intranet Solutions
- Web Monitoring & Filtering Solutions
- Web Site Portal Solutions

Enterprise Systems:
- Virtualization (Servers)
- Virtual Desktop Infrastructure (VDI)
- Anti-Virus, Spam, Spyware Solutions
- Data Encryption Products & Services
- Helpdesk Solutions
- Hosting Services and Applications (Cloud and SaaS)
- Radio Frequency Identification (RFID)
- Server, Storage & Data Management Products
- Telepresence/Video Conferencing

Training Solutions

Consulting Services

Other Goods and Services:
- Labor: Systems Engineer VOICE (Unified Communications)
- Labor: Project Manager
- Labor: Systems Engineer CCIE
- Labor: Systems Engineer Data Center
- Labor: Systems Engineer LAN/WAN/WIRELESS
- Labor: Systems Engineer Security
- Labor: Systems Engineer Servers (Microsoft)
- Labor: Systems Engineer Telepresence
- Labor: Systems Engineer Paging
- Labor: Systems Engineer Video Surveillance

- Labor: Training
- Labor: Cabling
- Labor: Project Manager – Cabling
- Labor: Access Point Mounting – Price Per AP

1.3 Services

Contractor shall provide such services in a good and professional manner in accordance with the terms and conditions stated herein, and any specifically referenced attachments hereto. The following exhibits are specifically incorporated by reference, attached hereto, and made a part hereof, except when in conflict with this Agreement or modified herein:

Exhibit A - County's Request for Proposal
Exhibit B - Contractor's Responding Proposal

Services shall include all activities of Contractor necessary to its performance of the work included in the scope herein described and shall perform all services as an independent contractor; not as an agent or employee of the County.

In the performance of Contractor's duties to perform such services, Contractor's services include, but are not limited to, the following:

1. Provide telecommunications products and services, using a competitively bid procurement tool, to public entities nationally.

2. Offer superior products and services, at competitively bid prices, to insure public entity telecommunications goals are being achieved.

3. Service FOCUS needs in specifically awarded telecommunications technology categories as listed in Section 1.2.

1.4 Contractor Commitments

1. Selected FOCUS partners are authorized to add new product lines as needed to replace discontinued product lines. Merced County will be notified in writing of such product changes (with pricing) as they occur.

2. Not Specifically Priced Items (NSP) – FOCUS users may order non-contracted products and services that are in support of the contracted items listed on the Purchase Order. Any NSP items must be peripheral and subordinate to the contracted items. The total value of all NSP items shall not exceed 10 percent of the total price of the Purchase Order.

3. Merced County reserves the right to receive and process all orders at a future date.

4. VENDORS NOT SELECTED FOR A FOCUS CONTRACT MAY NOT USE ANOTHER FIRM'S FOCUS CONTRACT TO QUALIFY FOR OTHER POLITICAL JURISDICTION CONTRACTS OR SALES AUTHORITY WITHOUT THE EXPRESS WRITTEN CONSENT FROM THE COUNTY OF MERCED.

5. Corporate level management support and resource commitment to the FOCUS Program.

6. Corporate level dedication to at least a California marketing program.

7. Corporate level commitment to their sales force in promoting the FOCUS Program and rewarding successes.
8. An aggressive marketing strategy.
9. Excellence in customer support and service.
10. A commitment to use local providers and/or contracted services where a corporate presence does not exist.
11. A commitment to include Merced County in semi-annual FOCUS planning/strategy meetings.
12. A commitment to meet on FOCUS progress each quarter.
13. A product and service quality assurance program that meets or exceeds industry excellence standards.
14. The most competitive pricing given to a state/local government agency for the array of products and/or services offered.

    NOTE: Pricing offered must reflect across the board percentage of discount or cost plus for every item/service submitted. Bidder must state in their proposal what percentage of discount or cost plus is being offered in their proposal.
15. An ability to include industry leaders in the corporate and product suites offered through subcontractor relationships.
16. An on-line order placement/tracking system for immediate input or retrieval of information/acknowledgments by vendor.
17. As required, a customer help desk (800 number/on-line access) to assist customer technical and administrative issues.
18. Product, service, and installation excellence to any location that meets industry's highest standards.
19. The availability and inclusion of product supplies, product training, networking services (if appropriate), and product maintenance.
20. All product installations and modifications performed by supplier will be by manufacturer-authorized personnel and meet manufacturer-documented specifications, unless otherwise specifically stated in the purchase order/Statement of Work.
21. All respondents offering technology services must be certified by the California Public Utilities Commission (CPUC) to offer those services. Evidence of certification from CPUC is required.
22. All products offered as a part of FOCUS must meet or exceed the specifications of the referenced brands.

1.5 Mandatory Administrative Requirements

1. Notify Merced County of all sales made under FOCUS, including order/delivery progress, within 14 business days of order.

2. Quarterly and annual sales reports.

3. A product/service document, paper or electronic — to be produced at least four (4) times per year. NOTE: Electronic documents shall be updated immediately for price reductions. The document must show the array of product/service offerings, product/service descriptions, and pricing schedules based on single item purchases. If appropriate, greater price reductions are expected as volume on identical items is increased. A percent of volume discount must be provided prior to order.

4. Price increase/price decline policies. Note: all price reduction changes must be published within 72 hours.

5. Quarterly Administrative fees for Merced County.

6. Subcontractor list (See Contract Attachment 1).

7. Ordering (including invoices, payments, taxes on sales and services, and return procedures), reporting, and reconciliation procedures (See Contract Attachment 2).

8. Support services including help desk phone numbers.

9. Warranty statements.

10. Point of contact including phone/fax/e-mail information.

2. TERM

The term of this Agreement shall commence on the 7th day of July, 2015, and continue until the 6th day of July, 2018, unless sooner terminated in accordance with Sections, "TERMINATION FOR CAUSE" and/or "TERMINATION AT WILL" as set forth elsewhere in this Agreement. Through mutual written agreement, the contract may be extended for two additional, one year terms, not to exceed a total of five years.

3. ADMINISTRATIVE FEES

Contractor agrees to pay Merced County administrative fees in accordance with the following schedule on a quarterly basis. Payment is to be made not later than 30 days following the end of the quarter (April 30, July 31, October 31, January 31).

(Sales will be calculated for fiscal year of January 1st through December 31st and reset each year)

Annual Sales Through Contract	Administrative Fee
$0 - $2,000,000	1%
$2,000,000+	0.5%

4. PUBLIC AGENCY PARTICIPATION

Any public agency, i.e., city, district, public authority, public agency, municipality and other political subdivision or a public corporation of California (hereinafter referred to as public agency)

in the State of California or any other state shall have the option of participating in any award made as a result of this proposal at the same prices, F.O.B. destination, and terms and conditions. The public agency shall make purchases in their own name, have deliveries made to their facilities, and be responsible for tax liability and payments directly to the Contractor. The public agency will hold harmless the County from all claims, demands, actions, or causes of actions of every kind resulting directly or indirectly, arising out of, or in any way connected with use of this Contract.

Public Agencies may not qualify vendors for their contract offerings by using FOCUS Terms and Conditions.

5. PROGRAM UTILIZATION REQUIREMENTS

In order for a public agency to utilize FOCUS contracts, the public agency must first complete an agreement with Merced County. Agreements are accomplished by referencing vendor's specific FOCUS contract number on each public agency's purchase order, forwarding original to Contractor, and providing an information copy to the Merced County Department of Community and Economic Development via U.S. Mail, fax, or e-mail. For ordering, reporting, and reconciliation procedures, see Contract Attachment 2.

6. NON-FOCUS VENDORS

Vendors not selected for a FOCUS contract may not use another firm's FOCUS contract to qualify for other political jurisdiction contracts or sales authority without the express written consent from the County of Merced.

7. NOTICES

All notices, requests, demands or other communications under this Agreement shall be in writing. Notice shall be sufficiently given for all purposes as follows:

A. Personal Delivery. When personally delivered to the recipient, notice is effective upon delivery.

B. First Class Mail. When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three mail delivery days after deposit in a United States Postal Service office or mailbox.

C. Certified Mail. When mailed by certified mail, return receipt requested, notice is effective upon receipt, if delivery is confirmed by a return receipt.

D. Overnight Delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.

E. Facsimile Transmission. When sent by fax to the last fax number of the recipient known to the party giving notice, notice is effective upon receipt, provided that: a) a duplicate copy of the notice is promptly given by first class mail or certified mail or by overnight delivery, or b) the receiving party delivers a written confirmation of receipt. Any notice given by fax shall be deemed received on the next business day if received after 5:00 P.M. (recipient's time) or on a non-business day.

Any correctly addressed notice that is refused, unclaimed or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messengers or overnight delivery service.

Information for notice to the parties to this Agreement at the time of endorsement of this Agreement is as follows:

County of Merced c/o
Director
Community and Economic Development
Merced County
2222 M Street
Merced, CA 95340

Contractor
AMS.NET, Inc.
Robert Tocci, President
502 Commerce Way
Livermore, CA 94551

Any party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

8. CONDITION SUBSEQUENT/NON-APPROPRIATION OF FUNDING

The compensation paid to Contractor pursuant to this Agreement is based on County's continued appropriation of funding for the purpose of this Agreement, as well as the receipt of local, county, state and/or federal funding for this purpose. The parties acknowledge that the nature of government finance is unpredictable, and that the rights and obligations set forth in this Agreement are therefore contingent upon the receipt and/or appropriation of the necessary funds. In the event that funding is terminated, in whole or in part, for any reason, at any time, this Agreement and all obligations of the County arising from this Agreement shall be immediately discharged. County agrees to inform Contractor no later than ten (10) calendar days after the County determines, in its sole judgment, that funding will be terminated and the final date for which funding will be available. Under these circumstances, all billing or other claims for compensation or reimbursement by Contractor arising out of performance of this Agreement must be submitted to County prior to the final date for which funding is available. In the alternative, County and Contractor may agree, in such circumstance, to a suspension or modification of either party's rights and obligations under this Agreement. Such a modification, if the parties agree thereto, may permit a restoration of previous contract terms in the event funding is reinstated. Also in the alternative, the County may, if funding is provided to the County in the form of promises to pay at a later date, whether referred to as "government warrants," "IOUs," or by any other name, the County may, in its sole discretion, provide similar promises to pay to the Contractor, which the Contractor hereby agrees to accept as sufficient payment until cash funding becomes available.

9. TERMINATION FOR CONVENIENCE

This Agreement, notwithstanding anything to the contrary herein above or hereinafter set forth, may be terminated by County at any time without cause or legal excuse by providing the other party with thirty (30) calendar days written notice of such termination.

Upon effective date of termination, County shall have no further liability to Contractor except for payment for actual services incurred during the performance hereunder. Such liability is limited to the time specified in said notice and for services not previously reimbursed by County. Such liability is further limited to the extent such costs are actual, necessary, reasonable, and verifiable costs and have been incurred by Contractor prior to, and in connection with, discontinuing the work hereunder.

10. TERMINATION FOR CAUSE

The County may terminate this Agreement and be relieved of making any payments to Contractor, and all duties to Contractor should the Contractor fail to perform any material duty or obligation of the Agreement. Notice shall be given as otherwise provided herein. In the event of such termination the County may proceed with the work in any manner deemed proper by the County. All costs to the County shall be deducted from any sum otherwise due the Contractor and the

balance, if any, shall be paid to the Contractor upon demand. Such remedy is in addition to such other remedies as may be available to the County provided by law.

11. MODIFICATION OF THE AGREEMENT

Notwithstanding any of the provisions of this Agreement, the parties may agree to amend this Agreement. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

12. INSURANCE

A. Prior to the commencement of work, and as a precondition to this contract, Contractor shall purchase and maintain the following types of insurance for the stated minimum limits indicated during the term of this Agreement. Contractor shall provide a certificate of insurance and endorsements naming County as an additional insured on each policy. The insurance carrier shall be required to give County notice of termination at least 10 days prior to the intended termination of any specified policy. Each certificate of insurance shall specify if Contractor has a SIR, and if so, Contractor shall be required to provide the entire policy of insurance with which it has a SIR.

1. Commercial General Liability: $1,000,000 per occurrence and $2,000,000 annual aggregate covering bodily injury, personal injury and property damage. The County and its officers, employees and agents shall be endorsed to above policies as additional insured, using ISO form CG2026 or an alternate form that is at least as broad as form CG2026, as to any liability arising from the performance of this Agreement.

2. Automobile Liability: $1,000,000 per accident for bodily injury and property damage, or alternatively split limits of $500,000 per person and $1,000,000 per accident for bodily injury with $250,000 per accident for property damage.

3. Workers Compensation: Statutory coverage, if and as required according to the California Labor Code, including Employers' Liability limits of $1,000,000 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the County.

4. If the successful bidder elects to deliver products to the County using a common carrier that is not related to the bidders business entity. The bidder may request waiver of the automobile and workers compensation insurance requirements.

5. Professional Liability: $1,000,000 limit per occurrence and $5,000,000 annual aggregate limit covering Contractors wrongful acts, errors and omissions.

B. Insurance Conditions

1. Insurance is to be placed with admitted insurers rated by A.M. Best Co. as A:VII or higher. Lower rated, or approved but not admitted insurers, may be accepted if prior approval is given by the County's Risk Manager.

2. Each of the above required policies shall be endorsed to provide County with 30 days prior written notice of cancellation. County is not liable for the payment of premiums or assessments on the policy. No cancellation provisions in the insurance policy shall be construed in derogation of the continuing duty of Contractor to furnish insurance during the term of this Agreement.

13. INDEMNIFICATION

Contractor has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, COUNTY, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract or otherwise. This duty shall include, but not be limited to, claims for bodily injury, property damage, personal injury, and contractual damages or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents and officers of Contractor.

Contractor's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of the Contractor, its agents, sub-Contractors and employees. The duty shall extend to any allegation or claim of liability except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first claim or allegation of liability against County. Contractor will on request and at its expense defend any action suit or proceeding arising hereunder. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

14. PATENT INDEMNITY

The awarded Bidder shall hold the County, its officers, agents, and employees, harmless from liability of any nature in kind, including costs and expenses, from infringement or use of any copyrighted or un-copyrighted composition, secret process, patented or unpatented invention, article, or appliance furnished or used in connection with this proposal. The Bidder may also be required to furnish a bond or other indemnification to the County against any and all loss, damage, costs, expenses, claims, and liability for patent or copyright infringement.

15. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that Contractor is an independent Contractor in the performance of the work duties and obligations devolving upon Contractor under this Agreement. County shall neither have, nor exercise any control or direction over the methods by which Contractor shall perform the assigned work and functions. The contractual interest of County is to assure that the services covered by this Agreement shall be performed and rendered in a competent, efficient and satisfactory manner.

It is agreed that no employer-employee relationship is created and Contractor shall hold County harmless and be solely responsible for withholding, reporting and payment of any federal, state or local taxes; any contributions or premiums imposed or required by workers' compensation; any unemployment insurance; any social security-income tax; and any other obligations from statutes or codes applying to Contractor, or its sub-Contractors and employees, if any.

It is mutually agreed and understood that Contractor, its sub-Contractors and employees, if any, shall have no claim under this Agreement or otherwise against the County for vacation pay, sick leave, retirement or social security benefits, occupational or non-occupational injury, disability or illness, or loss of life or income, by whatever cause.

Contractor shall insure that all its personnel and employees, sub-Contractors and their employees, and any other individuals used to perform the contracted services are aware and expressly agree that County is not responsible for any benefits, coverage or payment for their efforts.

16. RECORDS, INFORMATION AND REPORTS

Contractor shall maintain full and accurate records with respect to all matters covered under this Agreement. To the extent permitted by law, County shall have free access at all proper times or until the expiration of four (4) years after the furnishing of services to such records, and the right to examine and audit the same and to make transcripts there from, and to inspect all data, documents, proceedings, and activities pertaining to this Agreement.

To the extent permitted by law, Contractor shall furnish County such periodic reports as County may request pertaining to the work or services undertaken pursuant to this Agreement. The costs and obligations incurred or to be incurred in connection therewith shall be borne by the Contractor.

17. OWNERSHIP OF DOCUMENTS

To the extent permitted by law, all technical data, evaluations, plans, specifications, reports, documents, or other work products developed by Contractor hereunder are the exclusive property of County and upon request of County shall be delivered to County upon completion of the services authorized hereunder. In the event of termination, all finished or unfinished documents and other materials, if any, at the option of County, and to the extent permitted by law, shall become the property of the County. Contractor may retain copies thereof for its files and internal use.

Any publication of information directly derived from work performed or data obtained in connection with services rendered under this Agreement must be first approved by County.

18. QUALITY OF SERVICE

Contractor shall perform its services with care, skill, and diligence, in accordance with the applicable professional standards currently recognized by such profession, and shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, designs, drawings, plans, information, specifications, and/or other items and services furnished under this Agreement.

Contractor shall, without additional compensation, correct or revise any errors or deficiencies immediately upon discovery in its reports, drawings, specifications, designs, and/or other related items or services.

19. PERSONAL SATISFACTION AS A CONDITION PRECEDENT

The obligations of County as provided in this Agreement are expressly conditioned upon Contractor's compliance with the provisions of this Agreement to the personal satisfaction of the County. County shall determine compliance in good faith as a reasonable person would under the circumstances.

20. PRICING

If the FOCUS partnering contractor's prices decline, or should Contractor, at any time during the term of this Agreement, provide the same or similar goods or services under similar quantity and delivery conditions and terms and conditions of purchase to the State of California or any county, municipality or district of the state at prices below those set forth in this Agreement, then such lower prices shall be immediately extended to Merced County and the FOCUS users up to and including date of shipment from Contractor's shipping point.

21. ENTIRE AGREEMENT

This Agreement and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other contracts, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.

22. COUNTY NOT OBLIGATED TO THIRD PARTIES

County shall not be obligated or liable hereunder to any party other than Contractor.

23. LAWS, LICENSES, PERMITS AND REGULATIONS

Contractor and County agree to comply with all State laws and regulations that pertain to construction, health and safety, labor, minimum wage, fair employment practice, equal opportunity, and all other matters applicable to Contractor and County, their sub-grantees, Contractors, or sub-Contractor, and their work.

Contractor shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Merced and all other appropriate governmental agencies, including any certification and credentials required by County. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by COUNTY.

24. LIMITED AFFECT OF WAIVER OR PAYMENT

In no event shall the making, by County, of any payment to Contractor constitute, or be construed as, a waiver by County of any breach of covenant, or any default which may then exist, on the part of Contractor. The making of any such payment by County while any such breach or default shall exist, shall not be construed as acceptance of substandard or careless work or as relieving Contractor from its full responsibility under this Agreement.

No waiver by either party of any default, breach or condition precedent shall be valid unless made in writing and signed by the parties hereto. No oral waiver of any default, breach or condition precedent shall be binding on any of the parties hereto. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder.

25. PERSONNEL

Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. All of the services required hereunder will be performed by Contractor or under its supervision, and all personnel engaged in the work shall be qualified to perform such services.

26. SUBCONTRACTS - ASSIGNMENT

Contractor shall not subcontract or assign this Agreement, or any part thereof, or interest therein, directly or indirectly, voluntarily or involuntarily, to any person without obtaining the prior written consent by County. Contractor remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this Agreement. Contractor shall be held responsible by County for the performance of any subcontractor whether approved by County or not.

27. APPLICABLE LAW; VENUE

All parties agree that this Agreement and all documents issued or executed pursuant to this Agreement as well as the rights and obligations of the parties hereunder are subject to and governed by the laws of the State of California in all respects as to interpretation, construction, operation, effect and performance. No interpretation of any provision of this Agreement shall be binding upon County unless agreed in writing by County and counsel for County.

Notwithstanding any other provision of this Agreement, any disputes concerning any question of fact or law arising under this Agreement or any litigation or arbitration arising out of this Agreement, shall be tried in Merced County, unless the parties agree otherwise or are otherwise required by law.

28. BREACH OF CONTRACT

Upon breach of this Agreement by Contractor, County shall have all remedies available to it both in equity and/or at law.

29. REMEDY FOR BREACH AND RIGHT TO CURE

Notwithstanding anything else in this Agreement to the contrary, if Contractor fails to perform any obligation of this Agreement, the County may itself perform, or cause the performance of, such agreement or obligation. In that event, Contractor will, on demand, fully reimburse County for all such expenditures. Alternatively, County, at its option, may deduct from any funds owed to Contractor the amount necessary to cover any expenditures under this provision. This is in addition to any other remedies available to the County by law or as otherwise stated in this Agreement.

30. SUCCESSORS IN INTEREST

All the terms, covenant, and conditions of this Agreement shall be binding and in full force and effect upon any successors in interest and assigns of the parties hereto. This paragraph shall not be deemed as a waiver of any of the conditions against assignment set forth herein.

31. CONFLICT OF INTEREST

Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement. Contractor shall ensure that no conflict of interest exists between its officers, employees, or sub-Contractors, and the County. Contractor shall ensure that no County officer or employee in a position that enables them to influence this Agreement will have any direct or indirect financial interest resulting from this Agreement. Contractor shall ensure that no County employee shall have any relationship to the Contractor or officer or employee of the Contractor, nor that any such person will be employed by Contractor in the performance of this Agreement without immediate divulgence of such fact to the County.

32. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES

Contractor and any sub-Contractors shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and shall not unlawfully discriminate, deny family care leave, harass, or allow harassment against any employee, applicant for employment, employee or agent of County, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. Contractor shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of County employees and agents, and recipients of services are free from such discrimination and

harassment.

Contractor represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and ensure a workplace free of sexual harassment pursuant to Government Code 12950; and regulations and guidelines issued pursuant thereto.

Contractor agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable antidiscrimination laws and this provision.

Contractor shall include this nondiscrimination provision in all subcontracts related to this Agreement and when applicable give notice of these obligations to labor organizations with which they have Agreements.

33. CAPTIONS

The captions of each paragraph in this Agreement are inserted as a matter of convenience and reference only, and in no way define, limit, or describe the scope or intent of this Agreement or in any way affect it.

34. SEVERABILITY

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable or invalid, in whole or in part, for any reason, the validity and enforceability of the remaining provisions, or portion of them, will not be affected. Compensation due to Contractor from the County may, however, be adjusted in proportion to the benefit received despite the removal of the effected provision.

35. DUPLICATE COUNTERPARTS

This Agreement may be executed in duplicate counterparts, each of which shall be deemed a duplicate original. The Agreement shall be deemed executed when it has been signed by both parties.

COUNTY OF MERCED

By _____
Signature

JUL 7 2015

John Pedrozo
Name

Chairman, Board of Supervisors
Title

AMS.NET, Inc.

By _____
Signature

Joseph Moomau
Name

Vice President
Title

APPROVED AS TO FORM
JAMES N. FINCHER
COUNTY COUNSEL

By _____

MICHAEL LAMEN, **Deputy**

ATTACHMENT 1

SUBCONTRACTORS

Aerohive
APC
Atlas
Barracuda
Berk-Tek
Chatsworth
Cisco
Citrix
Damac
DataDomain
EMC
Essex
F5
Frontrow
General Cable
Hoffman
HP
iBoss
Kaspersky
Leviton
Lightspeed
Meraki
Microsoft
Nimble
Ocularis
Ortronix
Panduit
Pure Storage
Ruckus
Singlewire
Sony
Terra Wave
Tripp Lite
Vbrick
Veeam
VMware

ATTACHMENT 2

ORDERING, REPORTING, AND RECONCILIATION PROCEDURES

ORDERING:

To order from the FOCUS Contract, Contractor needs:

1. A public agency purchase order (P.O.), stating the FOCUS Contract Number, made out to Contractor.
2. Confirmation that a copy of the P.O. has been sent to County via U.S. Mail, fax or email.

Contractor can receive information in the following ways: U.S. Mail, fax or email:

US mail:
AMS.NET
Sales/FOCUS Contract orders
502 Commerce Way
Livermore, CA 94550

Fax:
925-245-6150

Email:
sales@ams.net

Upon receiving the above, Contractor will proceed with the ordering of the equipment delivered to Contractor for delivery to the customer. The Order Administrator will also send a copy of the P.O. to the County.

REPORTING AND RECONCILIATION:

Contractor will report to County on a quarterly basis. The report and associated fees will be sent by Contractor no later than the 15th of the month, following the end of the quarter (January 15th, April 15th, July 15th, October 15th) to the County via overnight carrier. Copies of P.O.'s will also be included.