



Amendment No. #1
to
For City of Austin Reference Contract No. MA 8500 NS200000025
Master Purchase Agreement for Vocera Solutions dated April 7, 2020
for
License Expansion & Additional Hardware
between
Vocera Communications, Inc.
and the
City of Austin, Texas

- 1.0 The City hereby amends the above referenced contract to increase by \$161,498.39 and to extend the term to June 10, 2028 for a revised total contract amount not to exceed \$289,179.59.
- 2.0 By signing this Amendment, the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above referenced contract.

Signature & Date:

 June 1, 2023

Printed Name: Clay Romano, Director of Sales - Vocera
Authorized Representative

Signature & Date:

Leslie Holt Digitally signed by Leslie Holt
Date: 2023.06.29 13:09:21 -05'00'

Procurement Specialist Name, Title
City of Austin

Vocera Communications, Inc.
3030 Orchard Parkway
San Jose, CA 95134

**CONTRACT BETWEEN THE CITY OF AUSTIN
AND
Vocera Communications, Inc.
For
License Expansion & Additional Hardware**

MA 8500 NS200000025

This Contract is made by and between the City of Austin (“City”), a home-rule municipality incorporated by the State of Texas, and **Vocera Communications, Inc.** (“Contractor”), having offices at **525 Race Street Suite 150 San Jose, CA 95126**.

SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES

1.1 **Engagement of the Contractor.** Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in Section 2, Scope of Work.

1.2 **Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for accomplishing all aspects of the tasks and associated activities identified in the Scope of Work. In the event that the need arises for the Contractor to perform services beyond those stated in the Scope of Work, the Contractor and the City shall negotiate mutually agreeable terms and compensation for completing the additional services.

1.3 **Responsibilities of the City.** The City’s Contract Manager will be responsible for exercising general oversight of the Contractor’s activities in completing the Scope of Work. Specifically, the Contract Manager will represent the City’s interests in resolving day-to-day issues that may arise during the term of this Contract, shall participate regularly in conference calls or meetings for status reporting, shall promptly review any written reports submitted by the Contractor, and shall approve all invoices for payment, as appropriate. The City’s Contract Manager shall give the Contractor timely feedback on the acceptability of progress and task reports.

1.4 **Designation of Key Personnel.** The Contractor’s Contract Manager for this engagement shall be Craig Smith, Phone: (408) 825-5889, Email Address: csmith@vocera.com. The City’s Contract Manager for the engagement shall be Steven Realing, Phone: (512) 974-7419, Email Address: steven.realing@austintexas.gov. The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

SECTION 2. SCOPE OF WORK

2.1 **Contractor’s Obligations.** The Contractor shall fully and timely provide all deliverables described herein and in the Contractor’s Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

SECTION 3. COMPENSATION

3.1 **Contract Amount.** The Contractor will be paid as indicated herein upon the successful completion of the Scope of Work. In consideration for the services to be performed under this Contract, the Contractor shall be paid an amount not-to-exceed **\$127,681.20** for all fees and expenses.

3.2 **Invoices.**

3.2.1 **Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be mailed to the below address:

	City of Austin
Department	Austin Public Library
Attn:	Chip Pryor
Address	635 N. Pleasant Valley Road
City, State, Zip Code	Austin, TX 78702

3.2.2 Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.

3.2.3 Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

3.2.4 Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

3.3 **Payment.**

3.3.1 All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.

3.3.2 **If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**

3.3.3 The City may withhold or off set the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

- 3.3.3.1 delivery of defective or non-conforming deliverables by the Contractor;
- 3.3.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
- 3.3.3.3 failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
- 3.3.3.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
- 3.3.3.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- 3.3.3.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
- 3.3.3.7 failure of the Contractor to comply with any material provision of the Contract Documents.

3.3.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

3.3.5 Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

3.4 **Non-Appropriation.** The awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this Contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

3.5 **Reimbursable Expenses.** Expenses incurred directly in support of completing the work set forth in this Contract are reimbursable to the Contractor within the Contract amount.

3.5.1 **Administrative.** The Contractor will be reimbursed for selected administrative expenses incurred directly in support of executing this Contract. Reimbursable administrative expenses include actual charges for long distance telephone calls, facsimile transmissions, reproduction, printing and binding, postage, express delivery and report processing.

3.5.2 **Travel Expenses.** All travel, lodging, and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Contract will be reviewed against the City's Travel Policy and the current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

<http://www.gsa.gov/portal/category/21287>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulation.

3.6 **Final Payment and Close-Out.**

3.6.1 The making and acceptance of final payment will constitute:

3.6.1.1 a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

3.6.1.2 a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

SECTION 4. TERM AND TERMINATION

4.1 **Term of Contract.** The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of 60 months.

4.1.1 Upon expiration of the contract, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary for the City to re-solicit and/or complete the deliverables due under this Contract (not exceed 120 calendar days unless mutually agreed on in writing).

4.2 **Right To Assurance.** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

4.3 **Default.** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the “Right to Assurance paragraph herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor’s Offer, or in any report or deliverable required to be submitted by Contractor to the City.

4.4 **Termination For Cause.** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City’s reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the “City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors” and remove the Contractor from the City’s vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor’s default, including, without limitation, cost of cover, reasonable attorneys’ fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

4.5 **Termination Without Cause.** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

4.6 **Fraud.** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

SECTION 5. OTHER DELIVERABLES

5.1 **Insurance:** The following insurance requirements apply.

5.1.1 **General Requirements.**

5.1.1.1 The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.

5.1.1.2 The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to Contract execution and within fourteen (14) calendar days after written request from the City.

5.1.1.3 The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

5.1.1.4 The Contractor shall not commence work until the required insurance is obtained and has been reviewed by City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

5.1.1.5 The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

5.1.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

5.1.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

City of Austin Purchasing Office
P. O. Box 1088
Austin, Texas 78767

OR

PURInsuranceCompliance@austintexas.gov

5.1.1.8 The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

5.1.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

5.1.1.10 The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

5.1.1.11 The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

5.1.1.12 The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

5.1.1.13 The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

5.1.1.14 The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

5.1.2 **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

5.1.2.1 **Commercial General Liability Insurance.** The minimum bodily injury and property damage per occurrence are \$1,000,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries). The policy shall contain the following provisions and endorsements.

5.1.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

- 5.1.2.1.2 Contractor/Subcontracted Work.
- 5.1.2.1.3 Products/Completed Operations Liability for the duration of the warranty period.
- 5.1.2.1.4 Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage.
- 5.1.2.1.5 Thirty (30) calendar days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage.
- 5.1.2.1.6 The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.

5.1.2.2 **Professional Liability/Technology Errors and Omissions Insurance.**

The Contractor shall provide coverage, at a minimum limit of \$1,000,000 per claim, to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, omission, or breach of security (including but not limited to any confidential or private information) arising out of the performance of professional services under this Agreement. The required coverage shall extend to technology licensed and/or purchased, including any Software licensed or Hardware purchased under this Contract.

If coverage is written on a claims-made basis, the retroactive date shall be prior to or coincident with the date of the Contract and the certificate of insurance shall state that the coverage is claims-made and indicate the retroactive date. This coverage shall be continuous and will be provided for 24 months following the completion of the contract.

5.1.2.3 **Endorsements.** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

5.2 **Equal Opportunity.**

5.2.1 **Equal Employment Opportunity.** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

5.2.1 **Americans With Disabilities Act (ADA) Compliance.** No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

5.3 **Interested Parties Disclosure.** As a condition to entering the Contract, the Business Entity constituting the Offeror must provide the following disclosure of Interested Parties to the City prior to the award of a contract with the City on Form 1295 "Certificate of Interested Parties" as prescribed by the Texas Ethics Commission for any contract award requiring council authorization. The Certificate of Interested Parties Form must be completed on the Texas Ethics Commission website, printed, and signed by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury. The City will submit the "Certificate of Interested Parties" to the Texas Ethics Commission within 30 days of receipt from the Offeror. Link to Texas Ethics Commission Form 1295 process and procedures below:

<https://www.ethics.state.tx.us/File/>

5.4 **Acceptance of Incomplete or Non-Conforming Deliverables.** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior

to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

5.5 **Delays.**

5.4.1 The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

5.5.1 Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in Contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

5.6 **Ownership And Use Of Deliverables.** The City shall own all rights, titles, and interests throughout the world in and to the deliverables.

5.5.1 **Patents.** As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.

5.6.1 **Copyrights.** As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this paragraph shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.

5.6.2 **Additional Assignments.** The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligation to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this paragraph shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms herein.

5.7 **Texas Public Information Act.**

5.7.1 All material submitted by the Contractor to the City related to the Contract shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary

must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

5.7.2 In accordance with Texas Government Code Sec. 552.372, if this Contract has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the City or results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the City in a fiscal year, Contractor agrees to:

5.7.2.1 Preserve all contracting information related to the Contract as provided by the records retention requirements in Section 17 (Audits and Records) of the Contract;

5.7.2.2 Promptly provide to the City any contracting information related to the Contract that is in the custody or possession of Contractor on request of the City; and

5.7.2.3 On completion of the Contract, either:

5.7.2.3.1 Provide at no cost to the City all contracting information related to the Contract that is in the custody or possession of Contractor; or

5.7.2.3.2 Preserve the contracting information related to the Contract as provided by the records retention requirements in Section 17 (Audits and Records) of the Contract.

5.7.3 The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Contract, and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that Subchapter.

5.8 **Publications.** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

SECTION 6. WARRANTIES

6.1 **Warranty – Price.**

6.1.1 The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.1.2 The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

6.1.3 In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.2 **Warranty – Services.** The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

6.2.1 The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

6.2.2 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the acceptance date. If during the warranty period, one or more of the warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30)

calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

6.2.3 If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

SECTION 7. MISCELLANEOUS

7.1 **Place and Condition of Work.** The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the Contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

7.2 Workforce.

7.2.1 The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

7.2.2 The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property:

7.2.2.1 use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the Contract; and

7.2.2.2 use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

7.2.3 If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

7.3 **Compliance with Health, Safety, and Environmental Regulations.** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

7.4 **Significant Event.** The Contractor shall immediately notify the City's Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to the Contract Manager. As used in this provision, a "significant event" is any occurrence or anticipated occurrence which might reasonably be expected to have a material effect upon the Contractor's ability to meet its contractual obligations. Significant events may include but not be limited to the following:

7.4.1 disposal of major assets;

7.4.2 any major computer software conversion, enhancement or modification to the operating systems, security systems, and application software, used in the performance of this Contract;

7.4.3 any significant termination or addition of provider contracts;

7.4.4 the Contractor's insolvency or the imposition of, or notice of the intent to impose, a receivership, conservatorship or special regulatory monitoring, or any bankruptcy proceedings, voluntary or involuntary, or reorganization proceedings;

7.4.5 strikes, slow-downs or substantial impairment of the Contractor's facilities or of other facilities used by the Contractor in the performance of this Contract;

7.4.6 reorganization, reduction and/or relocation in key personnel;

7.4.7 known or anticipated sale, merger, or acquisition;

7.4.8 known, planned or anticipated stock sales;

7.4.9 any litigation against the Contractor; or

7.4.10 significant change in market share or product focus.

7.5 **Audits and Records.**

7.5.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

7.5.2 Records Retention:

7.5.2.1 Contractor is subject to City Code chapter 2-11 (Records Management), and as it may subsequently be amended. For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the Contract whether in digital or physical format, except a record specifically relating to the Contractor's internal administration.

7.5.2.2 All Records are the property of the City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when requested by the City.

7.5.3 The Contractor shall include sections 7.5.1 and 7.5.2 above in all subcontractor agreements entered into in connection with this Contract.

7.6 **Financial Disclosures and Assurances.** The City may request and review financial information as the City requires to determine the credit worthiness of the Contractor, including but not limited to, annual reports, audited financial statements and reports, bank letters of credit or other credit instruments. Failure of the Contractor to comply with this requirement shall be grounds for terminating the Contract.

7.7 **Stop Work Notice.** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

7.8 **Indemnity.**

7.8.1 Definitions:

7.8.1.1 "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:

7.8.1.1.1 damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or;

7.8.1.1.2 death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),

7.8.1.2 "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

7.8.2 THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

7.9 **Claims.** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

7.10 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:

City of Austin, Purchasing Office

ATTN: Steven Realing, Contract Administrator

P O Box 1088

Austin, TX 78767

To the Contractor:

Vocera Communications, Inc

ATTN: Craig Smith, Contract Manager

525 Race Street Suite 150 San Jose, CA 95126.

San Jose, CA 95126.

7.11 **Confidentiality.** In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge,

recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

7.12 **Advertising.** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

7.13 **No Contingent Fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

7.14 **Gratuities.** The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

7.15 **Prohibition Against Personal Interest in Contracts.** No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

7.16 **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

7.17 **Assignment-Delegation.** The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

7.18 **Waiver.** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

7.19 **Modifications.** The Contract can be modified or amended only in writing signed by both parties. No pre-printed or similar terms on any Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

7.20 **Interpretation.** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have

been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

7.21 **Dispute Resolution.**

7.21.1 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

7.21.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

7.22 **Minority And Women Owned Business Enterprise (MBE/WBE) Procurement Program.**

7.22.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

7.22.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

7.22.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Contractor must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

7.22.4 Available on-line at:
https://www.austintexas.gov/financeonline/af_content.cfm?s=67

7.23.5 Contractor shall submit Prime Contractor employee certifications annually on the anniversary date of Contract award with the respective invoice to verify that employees are paid the Living Wage throughout the term of the Contract. The Employee Certification Forms shall be submitted for Prime Contractor and subcontractor employees directly assigned and added to the Contract and/or to report employee changes as they occur.

7.23 **Jurisdiction And Venue.** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

7.24 **Invalidity.** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

7.25 **Holidays.** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

7.26 **Survivability of Obligations.** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

7.27 **Non-Suspension or Debarment Certification.** The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

7.28 **Incorporation of Documents. Section 0100, Standard Purchase Definitions,** is hereby incorporated into this Contract by reference, with the same force and effect as if they were incorporated in full text. The full text versions of this Section are available, on the Internet at the following online address:
https://assets.austintexas.gov/purchase/downloads/standard_purchase_definitions.pdf

7.29 **Order of Precedence.** Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order.

7.29.1 This contract

7.29.2 Vocera's Offer dated 01/06/20;

7.29.3 Vocera's Supplemental Terms and Conditions

7.29.4 Vocera's Software Maintenance and Technical Support

In witness whereof, the parties have caused duly authorized representatives to execute this Contract on the dates set forth below.

Vocera Communications, Inc.

CITY OF AUSTIN

By: _____
Signature

By: _____
Signature

Name: _____
Printed Name

Name: _____
Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

List of Exhibits

- Exhibit A Non Discrimination Certification, Section 0800
- Exhibit B Vocera Communications, Inc.'s quote dated 01/06/20
- Exhibit C Supplemental Terms and Conditions for Vocera Solutions
- Exhibit D Vocera Communications, Inc.'s Software Maintenance and Technical Support

EXHIBIT A
City of Austin, Texas
NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION

City of Austin, Texas
Equal Employment/Fair Housing Office

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Non-Discrimination and Non-Retaliation Policy set forth below.

City of Austin
Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination and non-retaliation employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE THE CITY A COPY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 and the City's Non-Retaliation Policy may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4 and the Non-Retaliation Policy.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payment, the Contractor's Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this _____ day of _____, _____

CONTRACTOR _____
Authorized _____
Signature _____

Title _____



Purchase Order - Vendor Single

Reference Number	P.O. Date	Price Agreement #	Requestor	Buyer
DO 8500 20040808145 - 1	04/08/20	MA 8500 NS200000025	Cedric Zachary, 512-322-6215	See Solicitation, 512-974-2500

VENDOR	SHIP TO	BILL TO
Brenda Avalos VS0000035303 Vocera Communications, Inc. 525 Race Street Suite 150 San Jose, CA 95126-3495	Austin Public Library FACILITIES SERVICES CENTER 635 N. PLEASANT VALLEY RD Austin, TX 78702-3944	Austin Public Library ADMINISTRATION PO BOX 2287 Austin, TX 78768-2287

The City's standard purchase terms and conditions are hereby incorporated into this order by reference, with the same force and effect as if they were incorporated in full text. The full versions are available at https://assets.austintexas.gov/purchase/downloads/standard_purchase_terms_and_conditions.pdf or call the Purchasing Office at (512) 974-2500. Please include above reference number on all packages, deliveries, and invoices.

Line	Quantity	Unit	Comm Code	Commodity Line Description	Unit Price	Extended Amount
1	6.00	EA	2081149	License, Application Software, Microcomputer	4800.000000	\$28,800.00
Extended Description Mobility Package, Add-On, 25 Users, NA						
4	103.00	EA	20928	Communications: networking, linking, etc.	410.000000	\$42,230.00
Extended Description B3000n, Dual-Band, Black Badge with 2 Year Extended Warranty						
5	160.00	EA	20928	Communications: networking, linking, etc.	39.000000	\$6,240.00
Extended Description B3000 Series Battery, Black						
7	15.00	EA	20928	Communications: networking, linking, etc.	210.000000	\$3,150.00
Extended Description B3000, Charger, 8-Bay, NA						
9	10.00	EA	0804440	Lanyards, ID Badge, Breakaway type, hook fastener.	90.000000	\$900.00
Extended Description B3000, Double-Breakaway Lanyard, 25-Pack						

Order Total: \$ 90,140.00

VENDOR INSTRUCTIONS:

1. SEND ORIGINAL INVOICE WITH DUPLICATE COPY TO THE CITY DEPARTMENT TO WHICH THE GOOD(S) WERE DELIVERED
2. SHIPPING INSTRUCTIONS: F.O.B. DESTINATION UNLESS OTHERWISE SPECIFIED.
3. NO FEDERAL OR STATE SALES TAX SHALL BE INCLUDED IN PRICES BILLED. LIMITED SALES TAX #74-6000085.

Cedric Zachary

Digitally signed by Cedric Zachary
Date: 2020.04.08 10:27:03 -05'00'
Adobe Acrobat version: 2019.021.20061

Authorized Agent for City Manager

By acceptance of this purchase order, you agree to comply with the terms and conditions incorporated herein by reference and made a part of this order.

4/8/20

Date



Purchase Order - Vendor Single

Reference Number	P.O. Date	Price Agreement #	Requestor	Buyer
DO 8500 20040808145 - 1	04/08/20	MA 8500 NS200000025	Cedric Zachary, 512-322-6215	See Solicitation, 512-974-2500

Line	Quantity	Unit	Comm Code	Commodity Line Description	Unit Price	Extended Amount
11	2.00	EA	68016103001	Holder Badge Clip On	54.000000	\$108.00
Extended Description						
B3000, Universal Clip, 25-Pack						
13	0.00		95285	Support Services	0.000000	\$8,712.00
Extended Description						
Mobility Pkg, Std Supp, Add-On 25 Users						

Order Total: \$ 90,140.00

VENDOR INSTRUCTIONS:

1. SEND ORIGINAL INVOICE WITH DUPLICATE COPY TO THE CITY DEPARTMENT TO WHICH THE GOOD(S) WERE DELIVERED
2. SHIPPING INSTRUCTIONS: F.O.B. DESTINATION UNLESS OTHERWISE SPECIFIED.
3. NO FEDERAL OR STATE SALES TAX SHALL BE INCLUDED IN PRICES BILLED. LIMITED SALES TAX #74-6000085.

Authorized Agent for City Manager

By acceptance of this purchase order, you agree to comply with the terms and conditions incorporated herein by reference and made a part of this order.

Date



Master Purchase Agreement for Vocera Solutions
Territory: United States and Canada

This Consolidated Master Purchase Agreement for Vocera Solutions (this “Agreement” or “Master Purchase Agreement” or “Contract”) is made by and between Vocera Communications, Inc. and/or its corporate affiliate (“Vocera” or “Contractor”), and the end user identified below (“End User” or “City”).

1. **Preamble.** Vocera offers, and End User wishes to procure, certain Voice and Messaging products, including hardware, software, and related services, on the terms stated herein.
2. **Term.** The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of 60 months
3. **Termination.** See termination provisions of Section 5 (Termination) of Attachment 2.
4. **Attachments.** This Agreement includes and incorporates the attachments indicated below and attached hereto:

<i>Attachment</i>	<i>Title</i>
1	End User Contact Information; End User Facilities
2	Supplemental Terms and Conditions US and Canada
3	Badge Products Limited Warranty US and Canada (Voice only)
4	End User License Agreement US and Canada
5	Software Maintenance and Technical Support US and Canada
6	NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION

Vocera may from time to time post revised versions of Attachments 3 through 5 which will bear updated version numbers and which will take effect (a) in accordance with the provisions stated therein or (b) if not stated therein, when posted. Any variations set forth in the attachments hereto will, however, continue in effect to the extent applicable, except that the latest version of the Third-Party Software requirements as defined in the End User License Agreement and posted at www.vocera.com/legal will prevail to the extent of any inconsistency.

5. **Negotiated Provisions.** the following provisions are incorporated herein and shall govern in the event of any inconsistency with the provisions set forth in Attachments 1 through 5:
 - 5.1. In Section 3.1 of Attachment 2, the phrase “EX WORKS Vocera’s point-of-origin (in accordance with Incoterms 2000)” shall be deleted and replaced with “FOB End User’s destination.”
 - 5.2. In Section 4.3 of Attachment 2, the first sentence is deleted in its entirety and replaced with the following: “Payment shall be due net thirty (30) days from the date of receipt of invoice, which shall be on or subsequent to the date of shipment.”
 - 5.3. The first sentence of Section 10.3 of Attachment 2 is deleted in its entirety and replaced with the following: “The Master Purchase Agreement is personal to the parties, and neither party may assign or otherwise transfer any of its rights or obligations hereunder, whether voluntarily or otherwise, without the prior written consent of the other, not to be unreasonably withheld.”
 - 5.4. Dispute Resolution.
 - 5.4.1. If a dispute arises out of or relates to the Master Agreement, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each

party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

- 5.4.2. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator’s fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

5.5. Audits and Records.

- 5.5.1. The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

5.5.2. Records Retention.

- 5.5.2.1. Contractor is subject to City Code chapter 2-11 (Records Management), and as it may subsequently be amended. For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the Contract whether in digital or physical format, except a record specifically relating to the Contractor’s internal administration.

- 5.5.2.2. All Records are the property of the City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when requested by the City.


- 5.5.3. The Contractor shall include sections 4.5.1 and 4.5.2 above in all subcontractor agreements entered into in connection with this Contract.

- 5.6. Whenever one party to the Contract in good faith has reason to question the other party’s intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

- 5.7. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Section 4.6 (regarding the right to assurance) herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.
- 5.8. Vocera shall (1) defend End User, its officers, directors, agents, and employees from and against all claims for bodily injury to person, death or damage to tangible property, to the extent that such damage or injury is caused by any negligent or intentional acts or omissions of Vocera, its officers, agents, employees, independent contractors, and assigns while engaged in and during the course of the performance of this Agreement, and while in or about the premises and property of End User and (2) shall pay the damages and costs set forth in the award of a court of competent jurisdiction, all subject to End User promptly notifying Vocera of such claim, tendering to Vocera sole control of the defense thereof, and cooperating reasonably therein. For avoidance of doubt, to the extent that damage or injury arises from a failure of Vocera Products to conform to applicable specifications, this Section 9.25 shall not apply and the sole and exclusive remedy shall be as set forth in Attachment 4.
- 5.9. Vocera shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Agreement, except to the extent required by law.
- 5.10. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.
- 5.11. The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.
- 5.12. No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.
- 5.13. The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.14. Vocera shall, concurrently herewith, execute a "NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION" as set forth in Attachment 6.

- 5.15. In Section 1(a) of Attachment 3, the term of the warranty is revised by deleting both instances of the term “from shipment” and replacing it with “from receipt of shipment.”
- 5.16. In Section 3.1 of Attachment 5, the second sentence is replaced in its entirety by the following: “For Support under this Section, the initial term starts on the date End User receives the applicable Vocera Software license key and ends on the final Business Day of the calendar month 12 months following such date.”

In witness whereof, the parties have caused this Agreement to be executed by their duly authorized representatives as of April 7, 2020 (“Effective Date”).

Vocera Communications, Inc., a Delaware corporation	City of Austin (“End User”), a [REDACTED]
By: 	By: Cedric Zachary <small>Digitally signed by Cedric Zachary Date: 2020.04.07 16:08:41 -05'00' Adobe Acrobat version: 2019.021.20061</small>
Printed Name/Title: Douglas Carlen Vice President & General Counsel	Printed Name/Title: Cedric Zachary / Procurement Specialist II
Date: 4/07/2020	Date: 4/7/2020

Attachment 1
End User Contact Information

Legal Notices and Other Communications.

Legal notices to Vocera shall be made in accordance with the Supplemental Terms and Conditions attached to this Agreement. Legal notices and other communications to End User shall be directed as follows:

End User:	City of Austin
Address:	P.O. Box 1088 Austin, TX 78767
Attention:	Contract Management
Telephone:	(512) 974-1421

Attachment 2
Supplemental Terms and Conditions for Vocera Solutions
Territory: United States and Canada

1. **Definitions.** Capitalized terms used herein shall have the same meaning given them in the Quote or other agreements to which Vocera has agreed in writing, unless otherwise defined herein. In these Supplemental Terms and Conditions, the following words and expressions have the following meanings:
- 1.1 **“Billing Period”** is the billing period that may be specified in a Quote for Subscription Term Products.
 - 1.2 **“Business Day”** refers to a day of the week other than Saturday, Sunday and any state or national holiday at either the Vocera headquarters or End User location.
 - 1.3 **“Confidential Information”** shall have the meaning set forth in Section 7 below (Confidential Information).
 - 1.4 **“End User”** means the original user identified on the cover page of this Agreement, including any Facilities designated in Attachment 1.
 - 1.5 **“EULA”** means an End User License Agreement applicable to the Software Products, and attached to this Master Purchase Agreement.
 - 1.6 **“Hardware”** means the Vocera wireless communications badge purchased as part of a Vocera Communications System.
 - 1.7 **“Hardware Warranty”** means the Badge Products Limited Warranty for Hardware purchased as part of a Vocera Communications Software system, and if applicable to End User, attached to this Agreement.
 - 1.8 **“Intellectual Property Rights”** means all legally cognizable rights with regard to patent laws, copyright laws, trademark laws, trade secret laws, and similar laws with respect to intellectual property throughout the world.
 - 1.9 **“License Key”** means the coded token or username and password or other form of access control issued by Vocera which enables End User to use the Software.
 - 1.10 **“License Type”** means the identification of whether the license for a Software Product is for a Perpetual Term or Subscription Term as specified in the Quote.
 - 1.11 **“Perpetual Term”** means the duration of a Software license that continues for the length of the copyright in the associated Software, subject to the termination provisions of the EULA.
 - 1.12 **“Price”** means the price of a Product set forth in the applicable Quote.
 - 1.13 **“Product”** means one of the Vocera Hardware and/or Software products referred to in a Quote.
 - 1.14 **“Product Documentation”** means the specific materials listed under “Product Documentation” at www.vocera.com/legal, as updated by Vocera from time to time.
 - 1.15 **“Purchase Order”** means End User’s purchase order for Products specified in a Quote issued by Vocera or an authorized Vocera reseller.
 - 1.16 **“Quote”** means an outstanding Vocera firm written quotation or price list specifying the Product sold, Software licensed (including total number of authorized users), or Services to be provided by Vocera to End User hereunder.
 - 1.17 **“Service”** means a service offered by Vocera, including, but not limited to, professional services, education, and technical support (described in the applicable Software Maintenance and Technical Support policy defined below).

1.18 “Software” means the Vocera Communications Software, Vocera Secure Messaging Software and/or Vocera Care Transition Software identified in End User’s Purchase Orders submitted to Vocera under this Agreement.

1.19 “Software Maintenance and Technical Support” means the applicable Vocera Software Maintenance and Technical Support policy which is posted at www.vocera.com/legal and attached to this Agreement.

1.20 “Subscription Term” means the finite time period during which either use of a Software Product is licensed or a service is provided as specified in the Quote.

1.21 “USD” means United States Dollars.

1.22 “Vocera Care Transition Software” means the Vocera Care Transition software products licensed by Vocera pursuant to a EULA, in object code form only, for use with a Vocera Care Transition system.

1.23 “Vocera Communications Software” means the software licensed by Vocera pursuant to a EULA, in object code form only, for use with a Vocera Communications system.

1.24 “Vocera Secure Messaging Software” means the software licensed by Vocera pursuant to a EULA, in object code form only, for use with a Vocera Secure Messaging system.

2. Ordering.

2.1 Firm Purchase Orders. All Purchase Orders are firm and non-cancelable upon issuance by End User. End User may not cancel any Purchase Order or portion thereof after issuance unless Vocera has failed timely to notify End User of acceptance in accordance with Section 2.2 below.

2.2 Purchase Order Acceptance. No Purchase Order or change in Purchase Order shall be binding upon Vocera unless and until accepted by Vocera by written notice to End User or until Vocera ships all of the Products specified on the Purchase Order. Vocera will notify End User within five Business Days of Vocera’s receipt of a Purchase Order or requested change in a Purchase Order of: (a) Vocera’s acceptance or rejection thereof; and (b) the date estimated by Vocera for shipment of the Products ordered. Any Purchase Order not affirmatively accepted or rejected by Vocera as set forth above will be deemed rejected.

2.3 Arrears in Payment. Notwithstanding written acceptance of a Purchase Order for Products or Services, Vocera shall not be obligated to ship Products or perform Services where (a) End User is in arrears 30 days or more on payments owing to Vocera, or (b) the amount of the Purchase Order plus outstanding payments owing to Vocera by End User exceeds the credit limit established by Vocera for End User or (c) where End User is otherwise in material breach of an Agreement.

3. Shipment and Acceptance of Hardware Products.

3.1 Shipping. Anticipated shipment dates for Hardware Products shall be as specified in Vocera’s written acceptance of the Purchase Order. Vocera will package and ship the Hardware Products, EX WORKS Vocera’s point-of-origin (in accordance with Incoterms 2000). The Hardware Products will be shipped to the location specified on the Purchase Order, by a mode of shipment selected by Vocera and agreed upon by End User. In the absence of specific shipping and routing instructions, Vocera reserves the right to make selections of common carrier and method of shipment. Vocera shall endeavor to obtain commercially reasonable rates from its shipping vendors for shipments hereunder. Title to the Hardware (except title to Software incorporated therein), and risk of loss or damage will pass to End User upon delivery of the Hardware Products by Vocera to a common carrier. Vocera reserves the right to make partial shipments by line item to End User and invoice End User for such partial shipments. If the shipment of a Hardware Product is delayed by more than 10 Business Days from the anticipated shipment date provided by Vocera, End User’s sole and exclusive remedy for such late shipment is the right to cancel the order on two Business Days’ notice to Vocera.

3.2 Acceptance. Within 15 days following shipment of any Hardware Product by Vocera, End User may notify Vocera that the Hardware Product is “dead on arrival” or fails to conform to the Product Documentation on first use (“Out-of-Box Failure”). Vocera will have 10 days to respond or issue a Return Material Authorization (RMA) number in accordance with the Hardware Warranty. Vocera will ship a new replacement Hardware Product upon receipt of the affected Product, which is to be returned to Vocera, freight collect. The foregoing is End User’s sole and exclusive remedy for an Out-of-Box Failure. If no Out-of-Box Failure of a Hardware Product is reported as above, such Hardware Product shall be deemed irrevocably accepted at the end of the stated period, any subsequent problems shall be addressed through Vocera’s Hardware Warranty program.

4. Prices and Payment.

4.1 Prices and Taxes. The Prices do not include shipping charges, insurance, or sales, use, excise, withholding or other taxes, tariffs and duties. Consequently, End User shall pay, or reimburse Vocera for, the gross amount of all shipping charges and any present or future sales, use, excise, withholding or other taxes, tariffs and duties applicable to the sale or furnishing of any Products. In lieu of a specific tax, End User may provide Vocera with a tax exemption certificate acceptable to the applicable taxing authority.

4.2 License Type and Fees for Software Products. Vocera Software may be licensed either for a Subscription Term or a Perpetual Term, as further specified on the Quote. Vocera will issue the initial invoice for the Prices for the Products on the date of issuance of the applicable License Key. Vocera will issue such License Key to the End User email address designated on the Quote or such other email address provided to Vocera in writing. End User agrees issuance of such License Key to such End User email address shall constitute delivery of the Software which shall be deemed accepted upon such delivery.

(a) For Subscription Term Software. If End User’s Quote specifies a Subscription Term or otherwise identifies a Billing Period of fixed period of time, then such Software shall be considered licensed for a fixed Subscription Term. At the conclusion of each new or renewal Subscription Term, the Subscription Term will automatically be extended for three (3) months unless, prior to the end of such term, either (i) Vocera issues a Quote for an extended Subscription Term and End User issues and Vocera accepts a corresponding Purchase Order or (ii) either party provides written notice of non-renewal to the other. Where the Subscription Term is extended, but no new Quote applies, the pricing set forth in the original quote will continue to apply. Any initial, renewal or modified Subscription Term will take effect upon issuance by End User and acceptance by Vocera of a corresponding Purchase Order.

(b) For Perpetual Term Software. Unless End User’s Quote specifies a Subscription Term (as described in Section 4.2(a) above), End User’s license shall be for a Perpetual Term.

(c) For Pilot Software Licenses. From time to time, Vocera may also issue a pilot license for certain Software on a trial basis, in which case the term shall be limited to the term specified by Vocera in writing.

4.3 Payment. Payment shall be due net thirty (30) days from the date of invoice (subject to credit verification), which shall be on or subsequent to the (i) date of shipment of Hardware Products, (ii) the date of issuance of the applicable License Key for Software Products and Software Maintenance and Technical Support, (iii) the anniversary date for renewal Subscription Terms, or (iv) for Vocera Care Transition Software, the date applicable to each Billing Period set forth in the Quote, if any. End User agrees to pay interest on overdue amounts at an interest rate of twelve percent (12%) per year, compounded monthly or, if less, such rate as is allowed by law. Each delivery and partial shipment of Products will be considered a separate and independent transaction for which End User is required to make payment. End User shall not make deductions in anticipation of credit allowances. Vocera reserves the right to periodically request financial statements and reference information from End User for the purpose of establishing and maintaining open credit account terms. Vocera reserves the right to change payment terms (including without limitation requiring End User to secure payment through an irrevocable letter of credit) if at any time, in Vocera’s sole discretion, End User’s financial condition or payment record so warrants.

5. Termination.

5.1 Termination by Vocera for Cause. Vocera may, at its option, terminate this Agreement and corresponding Software licenses, disable the Software, and accelerate the amounts due to Vocera if: (a) End User fails to pay Vocera any monies due and payable to Vocera within fifteen (15) days after written notice of non-payment from Vocera; (b) End User fails to cure any material breach of its obligations under this Agreement within thirty (30) days after Vocera provides written notice setting forth the alleged default; or (c) End User breaches any term of any other agreement between End User and Vocera and does not cure the breach within applicable cure periods, if any.

5.2 Termination by End User for Cause. If End User claims that Vocera has materially defaulted in the performance of the duties and obligations of Vocera as expressly set forth herein, End User shall provide written notice specifically setting forth the alleged default(s) and Vocera shall have thirty (30) days within which to cure such default. End User's sole and exclusive remedy, for any breach of this Agreement by Vocera, shall be to terminate this Agreement, including any current Software licenses.

5.3 Termination for Convenience. Either party may terminate this Agreement for convenience at any time upon thirty (30) days' prior written notice to the other party so long as no Subscription Term remains in effect at the time of termination.

5.4 Effect of Termination. Upon termination of this Agreement for any reason (a) End User shall immediately discontinue all use of the corresponding Software Products, (b) the provisions of this Agreement pertaining to the confidentiality, non-use and nondisclosure of Confidential Information (as defined below) in Section 7 and Sections 8, 9 and 10 shall survive, and (c) within ten (10) days of termination, End User shall return to Vocera all copies of the corresponding Software (including updates and enhancements) and Product Documentation or other related materials.

6. Product Changes. Vocera shall have the right, in its absolute discretion, without liability to End User, to update to provide new functionality or otherwise change the design of any Product or to discontinue the manufacture or sale of any Product. Vocera shall notify End User at least 90 days prior to the delivery of any Product which incorporates a change that adversely affects form, fit or function ("Material Change"). Vocera shall also notify End User at least 90 days prior to the discontinuance of manufacture of any Product. Notification will be made as soon as reasonably practical for changes associated with regulatory or health and safety issues.

7. Confidential Information.

7.1 Definition. "Confidential Information" of one party (the "Disclosing Party") means any and all technical, financial, and business information of the Disclosing Party or of a third party to whom the Disclosing Party has an obligation of confidentiality, whether disclosed to the other party (the "Receiving Party") before or after the Effective Date and whether disclosed in writing, orally, or by electronic delivery, including without limitation any information relating to the Disclosing Party's or such third party's techniques, algorithms, know-how, current, future and proposed products and services, suppliers, research, engineering, designs, financial information, procurement requirements, purchasing, manufacturing, customer and End User lists, business forecasts, sales and merchandising, and marketing plans. Notwithstanding the foregoing, Confidential Information includes only that information that: (i) if delivered in writing or electronically, is designated conspicuously as "Confidential" or the like; and (ii) if delivered otherwise, is identified as confidential at the time of first disclosure and is summarized in a writing sent by the Disclosing Party to the Receiving Party within 30 Business Days of any such disclosure.

7.2 Obligations. The Receiving Party will maintain in confidence all Confidential Information of the Disclosing Party and will not use such Confidential Information except as expressly permitted herein. The Receiving Party will take all reasonable measures to maintain the confidentiality of such Confidential Information, but not less than the measures it uses for its confidential information of similar importance. The Receiving Party will limit

the disclosure of Confidential Information of the Disclosing Party to those of its employees and contractors with a bona fide need to access such Confidential Information for the Receiving Party's exercise of its rights and obligations under the End User Agreement; provided that all such employees and contractors are subject to binding use and disclosure restrictions at least as protective as those set forth herein. The Receiving Party hereby guarantees the performance of the provisions hereof by each person obtaining Confidential Information directly or indirectly from such Receiving Party. The Receiving Party will promptly give notice to the Disclosing Party of any unauthorized use or disclosure of the Disclosing Party's Confidential Information of which the Receiving Party becomes aware and will assist the Disclosing Party in remedying such unauthorized use or disclosure. The Receiving Party will not reverse engineer, disassemble, or decompile any Products, samples, prototypes, or other tangible objects provided by the Disclosing Party hereunder except with the express written authorization of the Disclosing Party. The obligations set forth in this paragraph shall survive for a period of three years after the longer of expiration or termination of the End User Agreement, if applicable, or the Quote Expiration Date.

7.3 Exclusions. The foregoing obligations on use and disclosure will not apply to any specific Confidential Information that (i) is or becomes generally known to the public through no act or omission of the Receiving Party; (ii) the Receiving Party can demonstrate by written evidence was rightfully in the Receiving Party's possession at the time of disclosure, without an obligation of confidentiality; (iii) the Receiving Party can demonstrate by written evidence was independently developed by the Receiving Party without use of or access to the Disclosing Party's Confidential Information; or (iv) the Receiving Party rightfully obtains from a third party not under a duty of confidentiality and without restriction on use or disclosure. Notwithstanding the obligations on use and disclosure set forth above, the Receiving Party may disclose the Disclosing Party's Confidential Information to the extent required by law (including the Texas Public Information Act), regulation, or court order, provided, however, that the Receiving Party notifies the Disclosing Party promptly after becoming aware of its obligation to make such disclosure and permits the other party to seek a protective order or otherwise to challenge or limit such required disclosure.

7.4 Protected Health Information. This Section applies only to End Users regulated under state and federal laws regarding individually identifiable health information ("Protected Health Information" or "PHI") including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and rules and regulations adopted in connection therewith. Vocera acknowledges that such End Users may be subject to various state and federal laws regarding the confidentiality and security of PHI, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) commonly known as HIPAA as well as the rules and regulations adopted and to be adopted in connection therewith. If in the course of performing its obligations under this Agreement, Vocera obtains or has access to PHI, Vocera agrees that any PHI received by it shall be held strictly confidential, and shall not be used by Vocera or disclosed by Vocera except as specifically provided in a separate writing or as permitted by law. If End User is deemed a "Covered Entity" and Vocera is deemed a "Business Associate" under applicable law, the parties shall be subject to the Business Associate Agreement which is mutually agreed to in writing by the parties. The Vocera Products are communication tools only and not a substitute for professional healthcare. Vocera is not a provider of healthcare services. End User and its employees and agents remain solely responsible for timely, accurate and complete communications related to healthcare and are solely responsible for the timeliness and quality of healthcare and services provided by End User and its agents.

7.5 Return of Information. Upon the expiration or termination of the End User Agreement, if applicable, or the Quote Expiration Date, the Receiving Party shall, upon request from the Disclosing Party: (i) return to the Disclosing Party all documents, samples, tapes, magnetic disks, CDs, and other tangible items containing or representing the Disclosing Party's Confidential Information and all copies thereof (other than Products and Product Documentation already paid for by End User) in whatever form; (ii) erase or destroy all of Disclosing Party's Confidential Information contained in computer memory or data storage apparatus; and (iii) certify to the Disclosing Party in writing signed by a duly-authorized officer of the Receiving Party that the Receiving Party has complied with the terms of this Section.

8. Defense of Certain Claims.

8.1 Defense. Vocera will, at its own expense, defend End User from or settle any third party claim, suit or proceeding brought against End User to the extent it is based upon a claim that any Product used as contemplated by the Product Documentation: (i) infringes in the applicable Territory defined in this Agreement upon any patent, trademark or any copyright or (ii) misappropriates any trade secrets of any third party alleged to be valid in the Territory (“IP Right”). Vocera will indemnify and hold End User harmless from all amounts (i) awarded by a court of competent jurisdiction in such matter (including damages, costs and fees) but only to the extent attributable to an allegation that End User’s use of the Product, authorized hereunder, infringes an IP Right or (ii) agreed in a settlement to which Vocera has assented in writing. The foregoing is contingent on End User providing Vocera prompt written notice of any such claim or action and giving Vocera full information and assistance in connection with defending and/or settling such claim, at Vocera’s sole expense. Vocera shall have the sole right to control the defense of any such claim or action and the sole right to settle or compromise any such claim or action. If a Product is, or in Vocera’s opinion might be, held to infringe or misappropriate as set forth above, Vocera may, in addition to its aforementioned obligations and at its sole option and expense, replace or modify such Product so as to avoid infringement or misappropriation, or procure the right for End User to continue the use of such Product. If neither of such alternatives is, in Vocera’s opinion, commercially reasonable, at Vocera’s request, such Product shall be returned to Vocera and Vocera’s sole and exclusive liability, in addition to its obligation to reimburse awarded damages, costs and expenses as set forth above, shall be to refund the amounts paid for such Product by End User, amortized over a useful life of five (5) years. If the “Territory” is not otherwise defined in an agreement between the parties, “Territory” shall mean the country where the primary use of the Product occurs.

8.2 Limitations. The foregoing obligations of Vocera will not apply to any claim arising out of: (i) the alteration of a Product by End User or a third party, (ii) the combination of a Product with goods or services not provided by Vocera where such infringement arises from the combination and where the Product could have been used, in the manner contemplated by its applicable Product Documentation, in a manner not giving rise to such infringement, or (iii) the failure to use the latest version of any software contained in any Product, in each case to the extent that infringement or misappropriation otherwise would have been avoided.

8.3 ENTIRE LIABILITY. TO THE FULL EXTENT PERMITTED BY LAW, VOCERA’S PERFORMANCE OF ITS OBLIGATIONS UNDER THIS PROVISION SHALL BE A SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO INTELLECTUAL PROPERTY RIGHTS, THE ALLEGED INFRINGEMENT OR MISAPPROPRIATION THEREOF AND ANY IMPLIED OR STATUTORY TERMS, CONDITIONS, REPRESENTATIONS, AND WARRANTIES OF NON-INFRINGEMENT.

9. Damages Exclusions and Limitations.

WITHOUT PREJUDICE TO ANY OF THE FOREGOING, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, VOCERA’S LICENSORS (AS DEFINED IN THE APPLICABLE EULA) DISCLAIM ALL LIABILITY TO END USER FOR DAMAGES OF ANY KIND AND VOCERA WILL NOT BE LIABLE FOR:

- (A) LOST PROFITS, LOST REVENUE, LOST INTEREST, LOST GOODWILL, LOSS OR CORRUPTION OF DATA OR FOR ANY LOSS OF OR INTERRUPTION TO BUSINESS;**
- (B) COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES;**
- (C) SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATING TO TRANSACTIONS UNDER THIS AGREEMENT (I) HOWEVER CAUSED OR ALLEGED TO BE CAUSED, (II) EVEN IF VOCERA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, (III) WHETHER GROUNDED IN WARRANTY, NEGLIGENCE, TORT, STRICT LIABILITY, BREACH OF CONTRACT, CIVIL LIABILITY OR OTHER CAUSE OF ACTION OR CLAIM UNDER OR IN CONNECTION HERewith OR THE SUBJECT MATTER HEREOF, AND (IV) REGARDLESS OF WHETHER MADE IN THE FORM OF AN ALLEGATION, DEMAND, SUIT, ACTION OR OTHER PROCEEDING OF ANY KIND (COLLECTIVELY, “CLAIM”); OR**
- (D) ANY AMOUNT EXCEEDING THE “LIABILITY LIMIT” (AS DEFINED BELOW).**

THE “LIABILITY LIMIT” IS ONE HUNDRED FIFTY PERCENT (150%) OF THE AMOUNT ACTUALLY PAID BY END USER FOR THE SPECIFIC



PRODUCT UNITS, SOFTWARE, OR SERVICES SUBJECT TO THE CLAIM WITHIN THE TWELVE (12) MONTHS PRIOR TO THE DATE OF THE CLAIM FOR (i) SOFTWARE WHERE THE CLAIM PRIMARILY RELATES TO SOFTWARE, INCLUDING BUT NOT LIMITED TO SOFTWARE LICENSED TO VOCERA BY THIRD PARTIES, OR TO VOCERA’S EULA; (ii) HARDWARE PRODUCTS WHERE THE CLAIM RELATES PRIMARILY TO HARDWARE PRODUCTS OR TO THE HARDWARE WARRANTY; (iii) SUPPORT SERVICES WHERE THE CLAIM PRIMARILY RELATES TO VOCERA’S SOFTWARE MAINTENANCE AND TECHNICAL SUPPORT; (iv) SERVICES OTHER THAN SUPPORT SERVICES WHERE THE CLAIM PRIMARILY RELATES TO SUCH SERVICES, AND/OR AN ENGAGEMENT LETTER PURSUANT THERETO; AND, WHERE CLAUSES (i) THROUGH (iv) ARE NOT APPLICABLE, (v) PRODUCTS AND/OR SERVICES AS APPLICABLE.

LIKEWISE, END USER WILL NOT BE LIABLE TO VOCERA FOR 9(A) – 9(C).

IF ANY PART OF THIS SECTION 9 IS FOUND TO BE UNENFORCEABLE BY ANY COURT OR COMPETENT AUTHORITY OR WOULD BE FOUND TO BE UNENFORCEABLE IF IT WERE INTERPRETED OR CONSTRUED IN A PARTICULAR WAY, THEN, THE RELEVANT WORDING SHOULD BE INTERPRETED OR CONSTRUED SO AS TO AVOID SUCH A FINDING AND THAT, IN THE EVENT OF SUCH A FINDING, THE REMAINDER OF THE PROVISION IN QUESTION SHALL BE INTERPRETED OR CONSTRUED TO GIVE IT FULL EFFECT.

10. General.

10.1 Notices. Any notice required to be given hereunder shall be in writing and shall be given by facsimile or email (confirmed by regular mail), personal delivery (including by professional courier), or mailing (by first class prepaid mail, return receipt requested). Notices to Vocera shall be sent as follows:

Notices to Vocera Accounts Receivable:	
Address:	Vocera Communications, Inc. Attention: Accounts Receivable 525 Race Street San Jose, CA 95126-3495
Telephone:	408-882-5100
Facsimile:	408-882-5101
E-mail:	accountsreceivable@vocera.com
Other Notices to Vocera:	
Address:	Vocera Communications, Inc. Attention: Law Department 525 Race Street San Jose, CA 95126-3495
Telephone:	408-882-5990
Facsimile:	408-882-5901
E-mail:	LawDepartment@vocera.com
Payments (unless otherwise agreed in writing) should be made by one of the following methods:	
Checks:	
Address:	Vocera Communications, Inc. Attn: Accounts Receivable P.O. Box 809087 Chicago, IL 60680-9087
Domestic Wire Transfer:	
To:	US BANK N.A.
Routing & Transit #:	██████████
For Credit Of:	Vocera Communications, Inc.
Credit Account #:	██████████
By Order Of:	<i>insert name of Payor and list of invoices paid</i>

International Wire Transfer	
Pay To:	US BANK N.A.
Swift Code:	██████████
For Credit Of:	Vocera Communications, Inc.
Final Credit Account #:	██████████
By Order Of:	<i>insert name of Payor and list of invoices paid</i>

Notices to End User shall be sent to any address specified in Attachment 1 of this Agreement. In the case of personal delivery, notice shall be deemed to have been given upon actual receipt. In the case of email or facsimile, notice shall be deemed to have been given upon the date the transmitting machine confirms such transmission. In the case of mailing, such notice shall be deemed to have been given seven Business Days after such mailing. The foregoing shall not be construed as limiting Vocera’s right to give notice by posting updated information on Vocera’s website to the extent otherwise provided herein.

10.2 Relationship of Parties. Nothing in the Agreement or any other document or agreement between the parties shall constitute or be deemed to constitute a partnership between the parties. The relationship between the parties shall be that of seller and buyer, respectively. End User, its officers, agents and employees, shall under no circumstances be considered the officers, agents, employees or representatives of Vocera. Neither party shall have the right to enter into any contracts or binding commitments in the name of or on behalf of the other party in any respect whatsoever.

10.3 Assignment. The Agreement is personal to the parties, and neither party may assign or otherwise transfer any of its rights or obligations hereunder, whether voluntarily or otherwise, without the prior written consent of the other; provided, however, that either party may assign in connection with an acquisition of all or substantially all of the assets or equity of such party by a third party. Any other attempted assignment or transfer without such consent shall be null and void. Subject to the foregoing, the Agreement will inure to the benefit of and be binding upon the permitted successors and assigns of the parties.

10.4 No Other Agreements. All previous agreements and arrangements (if any) made by Vocera and End User and relating to the subject matter hereof are hereby superseded. This Agreement, including all attachments and incorporated policies, embodies the entire understanding of the parties with respect thereto. This Agreement may only be amended by a writing signed by the parties. The foregoing does not limit Vocera’s rights to provide, establish, post, publish, or amend Product Documentation, materials, and policies subject to the express limitations in this Agreement.

10.5 Waiver. No waiver or amendment of any provision hereof shall be valid unless in writing. Any waiver shall only be applicable to the specific incident and occurrence waived. The failure by Vocera to insist upon strict performance, or to exercise any rights hereunder, shall not act as a waiver.

10.6 Force Majeure. Neither party shall be liable for any failure to perform any of its obligations hereunder (other than the payment of money) which results from an act of God, the elements, fire, flood, component shortages, terrorism, riot, insurrection, industrial dispute, accident, war, embargoes, restrictions imposed by statute, governmental regulation or the order of a court of competent jurisdiction, or any other cause beyond the reasonable control of the party.

10.7 Interpretation. Headings in any portion of this Agreement are for convenience only and will not in any way define or affect the meaning, construction, or scope of the provisions hereof. If any provision of this Agreement is deemed to be invalid, illegal or unenforceable, such determination shall not impair or affect the validity of the remaining provisions.

10.8 Injunctive Relief. Each party acknowledges that the disclosure of Confidential Information to the other party creates a relationship in which each is placing confidence and trust in the other, and that the unauthorized disclosure or use of such information would cause irreparable harm and significant injury that may

be difficult to ascertain. Accordingly, each party agrees that, notwithstanding anything in the Agreement to the contrary, a party may seek to enforce its rights with respect to the protection of such party's Confidential Information or Intellectual Property Rights hereunder, or the licensing of software, through equitable relief in a court of competent jurisdiction, including but not limited to an immediate injunction, and each party hereby waives any argument that the other has an adequate remedy at law.

10.9 Attorneys' Fees. In any litigation, arbitration or court proceeding between the parties with respect to the Agreement, the prevailing party shall be entitled to recover, in addition to any other amounts awarded, attorneys' fees and all costs of proceedings incurred in enforcing the Agreement.

10.10 Compliance with Law. Each party shall carry out its activities under the Agreement in full compliance with all applicable laws, including, without limitation, the U.S. Export Administration Act of 1979, as amended, the Export Administration Regulations thereunder, and the export laws and regulations of other jurisdictions as applicable. The United Nations Convention on the International Sale of Goods, and any local implementing legislation shall not apply to the Agreement.

10.11 Counterparts. If an Agreement is executed in counterparts, the counterparts when executed and delivered, shall each be deemed an original and taken together shall constitute one and the same instrument.

10.12 Language. The parties have expressly requested and required that these Supplemental Terms and Conditions and all other related policies and documents be drawn up in the English language. Les parties conviennent et exigent expressément que ce Contrat et tous les politiques et documents qui s'y rapportent soient rédigés en anglais. If a version of these Supplemental Terms and Conditions exists in a different language, the English language version shall prevail to the extent of any inconsistency.

10.13 Conflict. The terms of this Agreement shall prevail in the event of a conflict with any otherwise applicable law for the protection of proprietary rights. Any different or additional term preprinted on any End User Purchase Order or similar document are hereby rejected, notwithstanding any term set forth therein to the contrary.

10.14 Insurance. Vocera shall carry at its own expense at least the following insurance coverage: Worldwide General Liability (including Products/Completed Operations): USD \$2,000,000 General Aggregate Limit, \$1,000,000 Each Occurrence Limit; Domestic Automobile Liability: USD \$1,000,000 Bodily Injury and Property Damage Combined Single Limit for Hired & Non-Owned Auto Liability; Worldwide Umbrella Liability: USD \$8,000,000 Excess Coverage Other Aggregate Limit, USD \$8,000,000 Umbrella Coverage Aggregate Limit, USD \$8,000,000 Products/Completed Operations Aggregate Limit, USD \$8,000,000 Advertising and Personal Injury Aggregate Limit, USD \$8,000,000 Each Occurrence Limit; Professional Liability: USD \$3,000,000 Aggregate; Employers' liability and statutory Workers compensation insurance: As required by law. Upon request, from time to time, certificates of such coverage shall be submitted to the End User. The General Liability and Automobile Liability policies shall be endorsed to name the City of Austin as an Additional Insured. The General Liability, Automobile Liability, and Workers Compensation policies shall be endorsed to provide a Waiver of Subrogation in favor of the City of Austin. Vocera shall provide 30 Days' notice of cancellation or material changes.

10.15 Screening of Certain Personnel.

(a) Vocera obtains pre-employment background screening reports as a condition of employment. All pre-employment inquiries are limited to information that affects job performance and the workplace. Screening is conducted in accordance with applicable federal and state laws including the Fair Credit Reporting Act (FCRA). The screenings are by an outside agency. The screening report includes information concerning driving record, education records, and civil/criminal court records (over the last seven years).

(b) All employees that are expected to provide professional services at the End User site are required to take a standard drug urine test designed to detect casual drug use that occurred within the past 72 hours. Testing is performed at Substance Abuse and Mental Health Services Administration (SAMHSA)-certified laboratories. The

drug test is a ten panel test that includes and supplements the federally mandated (SAMHSA/DOT) five-drug panel. The ten panel screens for the presence of the following drugs and drug classes: amphetamines (amphetamine and methamphetamine), barbiturates (amobarbital, butalbital, pentobarbital, phenobarbital, and secobarbital), benzodiazepines, cocaine metabolite, marijuana metabolites, methadone, methaqualone, opiates (codeine and morphine), phencyclidine, and propoxyphene.

10.16 Compliance with Disclosure Law. To the extent required by law the following provision applies: End User and Vocera agree to comply with the Omnibus Reconciliation Act of 1980 (P.L. 96-499) and its implementing regulations (42 CFR, Part 420). Vocera further specifically agrees that until the expiration of four (4) years after furnishing services and/or products pursuant to this Agreement, Vocera shall make available, upon written request of the Secretary of the Department of Health and Human Services, or upon request of the Comptroller General, or any of their duly authorized representatives, this Agreement and the books, documents and records of Vocera that are necessary to verify the nature and extent of the costs charged to End User hereunder. Vocera further agrees that if Vocera carries out any of the duties of this Agreement through a subcontract with a value or cost of ten thousand dollars (USD 10,000) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives the subcontract, and books and documents and records of such organization that are necessary to verify the nature and extent of such costs.

10.17 Debarment. Vocera represents that (i) it has not been convicted of a criminal offense related to health care, and (ii) it is not currently listed by a federal agency as debarred, excluded or otherwise ineligible for participation in federally funded health care programs. Vocera shall notify End User immediately, in writing, of any change in this representation during the term of this Agreement. Such change in circumstances shall constitute cause by the End User to immediately terminate this Agreement. For purposes of this paragraph, Vocera is defined as the entity entering into this contract, and/or its principals, employees, directors and officers and shareholders (provided, however, that, if Vocera is publicly traded, the term "Vocera" shall not include shareholders owning publicly traded shares of Vocera).

10.18 Personal Inducements. Vocera represents and warrants that no cash, equity interest, merchandise, equipment, services or other forms of remuneration have been offered, shall be offered or will be paid or distributed by or on behalf of Vocera to End User and/or the employees, officers, or directors of End User or its member hospitals, or, to any other person, party or entity affiliated with End User or its member hospitals, as an inducement to purchase or to influence the purchase of products or services by End User from Vocera.

10.19 Conflicts of Interest. Except as may be disclosed in writing by Vocera, Vocera represents that no employee, director or officer of End User or any member hospital of End User is a partner, member or shareholder of, or, has a direct ownership interest in Vocera. For purposes of this Section, the term "direct ownership interest" shall include, but not be limited to, the following transactions or relationships between an employee, director or officer of End User or any member hospital of End User and Vendor: (a) consulting fees, honoraria, gifts or other emoluments, or "in kind" compensation; (b) equity interests, including stock options, of any amount (or entitlement to the same); (c) royalty income (or other income) or the right to receive future royalties (or other income); (d) any non-royalty payments or entitlements to payments; or (e) service as an officer, director, or in any other role, whether or not remuneration is received for such service. A breach of any representation under this Section shall be grounds for immediate termination of this Agreement.

10.20 Prohibition of Boycott Israel Verification. For the purposes of this Section only, the terms "company" and "boycott Israel" have the meaning assigned by Texas Government Code §2270.001.

10.20.1 If the Contractor qualifies as a “company”, then the Contractor verifies that it:

does not “boycott Israel”; and
will not “boycott Israel” during the term of this Contract.

10.20.2 The Contractor’s obligations under this Section, if any exist, will automatically cease or be reduced to the extent that the requirements of Texas Government Code Chapter 2270 are subsequently repealed, reduced, or declared unenforceable or invalid in whole or in part by any court or tribunal of competent jurisdiction or by the Texas Attorney General, without any further impact on the validity or continuity of this Contract.

10.21 Interested Parties Disclosure. As a condition to entering the Contract, the Business Entity constituting the Offeror must provide the following disclosure of Interested Parties to the City prior to the award of a contract with the City on Form 1295 “Certificate of Interested Parties” as prescribed by the Texas Ethics Commission for any contract award requiring council authorization. The Certificate of Interested Parties Form must be completed on the Texas Ethics Commission website, printed, and signed by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury. The City will submit the “Certificate of Interested Parties” to the Texas Ethics Commission within 30 days of receipt from the successful Offeror. The Offeror is reminded that the provisions of Local Government Code 176, regarding conflicts of interest between the bidders and local officials remains in place. Link to Texas Ethics Commission Form 1295 process and procedures below:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

10.22 Subcontractors. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the “Plan”). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor’s Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective Deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

A. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

- i. require that all Deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
- ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

- iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
 - iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
 - v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.
- B. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.
- C. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

Attachment 3 (for Voice Only)
Badge Products Limited Warranty (“Limited Warranty”)
935-07001 (Revision N)
Territory: United States and Canada

This version is current as of January 18, 2019. Please consult www.vocera.com/legal for superseding versions of this Badge Products Limited Warranty that may have been issued subsequent to that date.

1. Standard Warranty.

a. Standard Warranty. Vocera warrants that the wireless communication badges, smartbadges, telephones, batteries and battery chargers sold by Vocera (“Devices”) conform substantially to the specific applicable materials listed under “Documentation” at www.vocera.com/legal and are free from defects in materials and workmanship for one year from shipment to the original end user who purchases the Devices (“End User”). Vocera further warrants that clips, lanyards and other such accessories sold by Vocera for use with the Devices (“Accessories” and, together with Devices, “Hardware”) are free from defects in materials and workmanship for 3 months from shipment to the End User. This Limited Warranty applies only to the End User. The End User must provide written notice to Vocera that any Hardware is not as warranted no later than 10 business days following expiration of the applicable warranty period, or the right to assert such claim will be deemed waived. As the sole and exclusive remedy, at its option and to the extent permitted by law, Vocera will at no charge either: (1) repair or replace the Hardware with functionally equivalent new, previously opened, or refurbished parts and replacements or (2) refund the net price paid to Vocera for the original Hardware. The repaired or replacement Hardware is warranted for the remaining warranty term of the original Hardware. The obligations hereunder are conditioned upon the End User obtaining a Return Materials Authorization (RMA) and returning the defective Hardware in accordance with Section 4 (Return Materials Authorization) below. The replacement Hardware becomes the property of the End User and the Hardware replaced becomes the property of Vocera.

b. Optional Extensions of Standard Warranty. End User may purchase optional warranty extensions for the Standard Warranty for Devices as offered by Vocera from time to time, but only if End User purchases such warranty extension at the same time as End User purchases the Device. Upon such purchase, End User’s Standard Warranty as set forth in Section 1(a) above shall extend for the applicable time increment beyond the initial one year warranty term for such Devices as described in the Standard Warranty above.

c. Standard Warranty Exclusions. The Standard Warranty does not apply and is void with respect to: (a) cosmetic damage, (b) product that has been improperly installed or maintained, (c) costs of any installation or deinstallation, (d) Hardware not manufactured or supplied by Vocera, (e) failures or defects caused by misuse, abuse, accidents, physical damage, abnormal operation, improper handling and storage, neglect, exposure to fire, fluids, biological waste, hazardous materials, chemicals, excessive moisture or dampness, extreme changes in climate or temperature, spills of food or liquids, or alterations, (f) problems caused by the End User network (e.g., connectivity, coverage or other signal reception problems), (g) floods, (h) acts of God, (i) riots, (j) Hardware from which warranty stickers, electronic serial numbers and/or serial labels have been removed, altered or rendered illegible, (k) Hardware operated outside published environmental parameters, (l) performance of Hardware in combination with other items not manufactured or supplied by Vocera (unless designated by Vocera as compatible with Vocera Devices), (m) any Hardware which has been opened, repaired, modified or altered by anyone other than Vocera or a Vocera authorized service center, (n) engraving; (o) Accessories and materials subject to normal wear and tear, or (p) other circumstances beyond the reasonable control of Vocera.

2. Customer Care Warranty Option for B3000 and B3000n Badges Only.

a. Option to Add Customer Care Warranty. In addition to the Standard Warranty provided above, Vocera offers an optional Customer Care Warranty coverage solely for B3000 and B3000n badges (“B3 Badges”) which are accidentally damaged in normal use (“Accidental Damage”). The Customer Care Warranty option may

only be purchased for the same duration as the Standard Warranty for such badge (e.g. End User may only purchase a two year Customer Care Warranty extension if End User has purchased a two year Standard Warranty Extension).

b. B3 Customer Care Warranty Coverage. Under the B3 Customer Care Warranty, Vocera shall either repair or replace each B3 Badge that has Accidental Damage where, as a result of such Accidental Damage, the B3 Badge no longer conforms substantially to the applicable Documentation. If Vocera determines replacement of the badge is necessary, the replacement badge shall consist of a functionally equivalent and new or refurbished B3 badge. The repaired or replacement badge is warranted under the Customer Care Warranty for the remaining warranty term of the original badge. This Customer Care Warranty applies only to the End User. The End User must provide written notice to Vocera that it plans to return any B3 badge covered under this Customer Care Warranty no later than 10 days following expiration of the applicable warranty period, or the right to assert such claim will be deemed waived. The obligations hereunder are conditioned upon the End User obtaining a Return Materials Authorization (RMA) and returning the defective or damaged B3000 badge in accordance with the Vocera Badge Products RMA policy detailed below. The foregoing states End User's sole and exclusive remedy for under the B3000 Customer Care Warranty.

c. B3 Customer Care Warranty Exclusions. The Customer Care Warranty does not apply and is void with respect to: (a) any damage caused by intentional abuse, exposure to fire, biological waste, hazardous materials, chemicals or acts of God; (b) cosmetic imperfections of the external components that do not affect functionality or operation of the badge; (c) costs of any installation or deinstallation of the badge; (d) badges from which warranty stickers, electronic serial numbers and/or serial labels have been removed, altered or rendered illegible; (e) badges operated outside published environmental parameters; (f) nonfunctional performance of badges which occurs when the badge is used in combination with other items not manufactured or supplied by Vocera (unless designated by Vocera as compatible with B3 Badges); (g) B3 Badges which has been opened, repaired, modified or altered by anyone other than Vocera or a Vocera authorized service center, (h) engraving; or (i) batteries, battery charges, Accessories or any other hardware not manufacture or supplied by Vocera. Vocera reserves the right to refuse to repair or replace any badge which Vocera reasonably believes is not covered by the Customer Care Warranty, and in such event will notify End User and provide End User with the option to either have Vocera return the badge to Customer at Customer's expense or dispose of the badge.

d. Excessive Returns. If the total number of B3 Badges returned by End User exceeds 25% of the total number of B3 Badges for which End User has purchased Customer Care Warranty coverage ("Return Limit"), then Vocera reserves the right to charge End User \$120 for each returned badge that is in excess of the Return Limit. By way of clarification, the Return Limit does not apply to products covered by the Standard Warranty set forth in Section 1 above.

3. Disclaimer.

EXCEPT FOR THE EXPRESS WARRANTIES ABOVE, AS APPLICABLE, ALL EXPRESS, IMPLIED OR STATUTORY TERMS, CONDITIONS, REPRESENTATIONS, AND WARRANTIES (INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE) ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. THIS LIMITED WARRANTY IS PROVIDED ON THE BASIS THAT THE END USER IS PURCHASING THE HARDWARE FOR THE PURPOSES OF A BUSINESS, AND NOT FOR HOUSEHOLD OR CONSUMER USE. VOCERA'S RESELLERS HAVE NO AUTHORITY TO MAKE ANY REPRESENTATIONS OR COMMITMENTS ON BEHALF OF VOCERA OR TO MODIFY, IN ANY RESPECT, THIS LIMITED WARRANTY, ANY OF ITS PROVISIONS OR ANY RIGHTS HEREUNDER. IF ANY CONDITION OR WARRANTY IMPLIED BY LAW IN RELATION TO THE SALE OR SUPPLY OF GOODS WHICH CANNOT LAWFULLY BE EXCLUDED, RESTRICTED OR MODIFIED OR CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED EXCEPT TO A LIMITED EXTENT IS BREACHED THEN, TO THE EXTENT PERMITTED BY LAW, END USER'S REMEDY IN RESPECT OF SUCH CONDITION OR WARRANTY IS LIMITED, AT VOCERA'S OPTION, TO THE SOLE AND EXCLUSIVE REMEDY STATED IN THE APPLICABLE WARRANTY CLAUSE ABOVE.

4. Return Material Authorization (RMA).

a. End Users supported by a Reseller should contact the Reseller directly for instructions.

b. End Users supported directly by Vocera should request a Return Material Authorization (RMA) number by logging into the Technical Support Portal at: www.vocera.com/support and opening an RMA case. Alternatively, End Users may open a RMA case by calling Technical Support using the contact information posted at www.vocera.com/contact-us. Upon authorization of the return, the End User will be provided with an RMA number which will be valid for thirty (30) days from the date of issuance. Full instructions, including diagnostic criteria and information regarding eligible warranty returns, are available on the Vocera Technical Support Portal. Assistance in using the Vocera Technical Support Portal may be obtained by sending an email to support@vocera.com.

c. Once an RMA number is issued, please properly package the equipment being returned and label the outside of the package with the assigned RMA number. End User will be provided with a shipping address when an RMA is authorized. End User is responsible for shipping charges (including shipping insurance) to return products to Vocera. Vocera is responsible for shipping charges to return to End User any products repaired or replaced in accordance with the applicable warranty (including Customer Care provisions, if applicable). Repaired or replace Vocera badges will be in reset to a default state of the then-current Vocera firmware release for the badge. Product returned to Vocera without an active RMA number, or product which does not match the RMA case details or does not qualify for warranty support may be returned to the End User by Vocera as is and without repair.

5. Updates.

If Vocera hereafter posts any new or modified version of this Limited Warranty, such new or modified version will apply to products ordered subsequent to the date of such posting.

Attachment 4
End User License Agreement
935-01001 (Revision J)
Territory: United States and Canada

This version is current as of February 15, 2017. Please consult <http://vocera.about-us/legal/voice-messaging-products-legal-documents> for superseding versions of this End User License Agreement that may have been issued subsequent to that date.

YOU MAY NOT USE VOCERA-PROVIDED SOFTWARE UNLESS YOU AGREE TO THESE PROVISIONS.
BY USING THIS SOFTWARE, YOU AGREE TO ALL OF THESE PROVISIONS.

1. Introduction. This End User License Agreement (“EULA”) sets forth the provisions under which Vocera Communications, Inc. and/or its corporate affiliates (“Vocera”) is willing to grant to you, a single business entity, certain licenses to Client Software and/or Server Software (collectively, “Software”) consisting of such Software as Vocera initially or subsequently provides (e.g., in conjunction with a subsequently acquired Vocera Communications Badge or as an update, upgrade or new product offering, all as detailed in Section 8). “Client Software” is Vocera-provided software that operates on a Vocera Communications Badge or other client device supported by Vocera (e.g. a smartphone) (“Authorized Client Device”). “Server Software” is Vocera-provided software that operates on server hardware platforms at your site, including both standard and optional components. “Hosted Services” means the certain other services hosted by Vocera and/or its designee to which you and certain affiliates will be provided electronic access over the Internet for use in conjunction with the Software. Defined terms used in this EULA, but not defined herein, are defined in the Supplemental Terms and Conditions in Attachment 2.

2. License.

(a) **Server Software.** Subject to the terms and conditions of this EULA, Vocera grants you the non-exclusive right to (i) install and run (“Use”) the Server Software on computer systems (each, a “Server Computer”) located at End User’s Facilities in the geographic territory designated above (“Territory”); (ii) to Use the Client Software in conjunction with Authorized Client Devices and such Server Computers; and (iii) for pilot licenses for certain Software provided on a trial basis, use such Software for the limited term specified by Vocera in writing. You may Use the standard Server Software on one primary Server Computer (or a primary cluster of computers suitably configured for productive use of the Server Software). You may install backup copies of the Server Software on backup Server Computers to provide redundancy in the event of failure of the primary Server Computer(s) but, unless you have acquired additional licenses or a failover license from Vocera, you may not run such backup or additional copies concurrently with the primary copies. Vocera grants you the right to use the applicable License Key issued by Vocera only to enable Use of the Server Software in conjunction with the licensed Server Computers.

(b) **Hosted Service.** If a Hosted Service is provided, then subject to the terms and conditions of this EULA, Vocera grants you the non-exclusive right to utilize the Hosted Service during the applicable Subscription Term solely for use by you and designated affiliates in conjunction with the Vocera Software, and other Products or Services you have licensed or purchased.

3. Title and Ownership. The Software is licensed, not sold to you by Vocera and Vocera reserves any rights not expressly granted to you. All right, title, and interest in the Software and Product Documentation, including without limitation all patent rights, copyrights and other intellectual property rights thereto, is retained by Vocera and its Licensors. You (including your permanent and temporary employees and subcontractors) may run the Software and use the corresponding Product Documentation subject to the restrictions herein solely for your internal business purposes. You shall ensure that your employees, subcontractors and other agents who have access to the Software are made aware of the terms hereof.

4. Term and Termination. If End User’s Quote indicates that the Software is licensed for a Subscription Term or otherwise refers to a Billing Period of fixed period of time, then such Software shall be considered licensed for such fixed Subscription Term. Any Software not specifically licensed for a Subscription Term or other limited term (e.g. a pilot license) is licensed for a Perpetual Term. Notwithstanding the foregoing, Vocera has the right to terminate this EULA immediately without notice from Vocera if you fail to cure a material breach of this EULA within 30 days following your receipt of written notice of the breach. Upon expiration or termination of this EULA,

you shall cease using and shall destroy the Software and any Product Documentation and all copies thereof including any updates or upgrades.

5. Restrictions. Various licenses offered by Vocera differ in certain limits as set forth in the Quote or otherwise specified in writing by Vocera (the “Limits”), including limits on (i) the number of user profiled and/or concurrent users permitted, (ii) the hardware resources (e.g., number of Authorized Client Devices or communication ports) supported, or (iii) the features enabled. You may not (a) Use the Server Software on or from any platform other than the Server Computers, (b) Use the Client Software on or from any platform other than the Authorized Client Devices, (c) Use the Software in a manner exceeding such Limits, (d) Use the Software so as to circumvent any technological measure provided from time to time to control access to or limit its Use, or (e) Use the Software other than as contemplated by the Product Documentation; provided, that the foregoing does not apply to the extent that such activities are expressly permitted by law notwithstanding this prohibition. You agree not to duplicate or disclose to third parties any License Key issued by Vocera without Vocera’s prior written consent. The Software may not be transferred, nor the rights granted hereunder assigned, to a third party except that, subject to payment to Vocera of its standard fee in effect from time to time, the Software and License Key may be transferred and this license assigned to a corporate affiliate so long as the original and all surviving copies are transferred to such affiliate and such affiliate agrees in writing to be bound hereby. The Software and Product Documentation may not be (A) rented, leased or lent to third parties; (B) used in any jurisdiction outside the Territory or imported into any jurisdiction except in compliance with all applicable laws of the Territory and such jurisdiction; or (C) made available to third parties as part of any time-sharing or service bureau arrangement. You may not, and may not attempt or encourage or permit any third party to: (I) copy, modify, translate, adapt, market, sublicense or make derivative works from all or any portion of the Software or Product Documentation, or reverse engineer, reverse compile, disassemble or decompile the Software or any portion thereof except, and only to the extent, that such activity is expressly permitted by law notwithstanding this limitation; (II) if licensing a Hosted Service, interfere with or disrupt any Hosted Service or servers or networks connected to the Hosted Service; or (III) use the Software in violation of any local, state, national, foreign or international statute, regulation, treaties or other laws. Notwithstanding the foregoing, you may make a reasonable number of copies of the Server Software solely for archival or disaster recovery and subject to the restrictions imposed by copyright law. You agree to reproduce product identification, copyright and other proprietary notices of Vocera and Licensors on all copies. Your rights are only as expressly stated herein. There are no implied rights to Use, distribute, modify or reproduce the Software. ***Violation of any of the foregoing is a material breach hereof.***

6. No Warranty. Software errors are likely. Maintenance and support services for the correction of Software errors are available separately from Vocera or an authorized reseller and, therefore, no warranty or condition of any kind for the Software, either express, implied or statutory, is provided under this EULA. Vocera’s resellers have no authority to make any representations or commitments on behalf of Vocera or to modify, in any respect, this EULA, any of its provisions or any rights hereunder. The Software includes speech recognition features implemented by means of statistical processes that are inherently subject to error. You are responsible for confirming the suitability of the Software for your specific application, monitoring your use of the Software and providing for the handling and/or correction of such errors. **ALL EXPRESS, IMPLIED OR STATUTORY TERMS, CONDITIONS, REPRESENTATIONS, AND WARRANTIES (INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE) ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW.**

7. Secondary Alarm System. Use of the Software as a primary alarm system is prohibited and excluded from the licenses granted by Vocera. The Software is provided only as a secondary/ancillary means of annunciating and displaying alarms and other information to clinical personnel. The Software is not intended to replace or supersede, in whole or in part, any patient monitoring systems or procedures used with medical devices provided or recommended by other vendors, whether or not such medical devices interoperate with the Software.

8. U.S. Government Users. The Software is a “commercial item” consisting of “commercial computer software” and the Product Documentation is a “commercial item” consisting of “commercial computer software documentation,” as such terms are used in 48 C.F.R. 2.101 and 48 C.F.R. 12.212. Under 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 to 227.7202-4, U.S. Government Users acquire the Software and Product Documentation only with the rights set forth therein.

9. Third-Party Licensors; Updates. Certain modules or technology included by Vocera within the Software are provided by Vocera’s direct or indirect licensors (respectively, “Licensor Modules” and “Licensors”). Certain requirements imposed by the Licensors are posted at www.vocera.com/third-party-software and are incorporated herein by reference. Furthermore, Client Software licensed for use with certain Authorized Client Devices is distributed by Vocera through third party “app stores” and is subject to the additional terms specified at the time of download. The Third-Party Software requirements are included for the express benefit of the corresponding Licensors who are third-party beneficiaries of, and entitled to enforce, such provisions. Updates to the Software and new product offerings may be subject to a revised EULA and/or revised Third-Party Software requirements posted at www.vocera.com/legal. Any such revisions posted as of the date of installation of a Software update or new offering are effective immediately upon installation.

Attachment 5
Software Maintenance and Technical Support
935-16001 (Revision P)
Territory: United States and Canada

1. Preamble & Definitions. These Support Terms govern the provision by Vocera Communications, Inc. (“Vocera”) of certain software maintenance and technical support services for Vocera’s Clinical Communication offerings (“Support”) and any on site assistance pursuant to Section 9 below (“On-Site Assistance”), all as described below and purchased by an end user customer (“End User”) from either Vocera or Vocera’s authorized reseller (“Reseller”). Vocera provides Support for the Software used in conjunction with Authorized Client Devices as part of End User’s Operating Environment as further described in Section 5 below. As used in these Support Terms:

- **“Authorized Client Devices”** means the Vocera wireless communication badges (for Voice Communications Systems) or other Vocera supported client devices (e.g. certain third-party smartphones) that work with the Software. As part of Support, Vocera will support hardware issues relating to Vocera manufactured Authorized Client Devices and endeavor to assist End User with the use of the Software on third party manufactured Authorized Client Devices, but except as specified at www.vocera.com/about-us/legal/third-party-products-legal-documents, Vocera is not responsible for or obligated to provide hardware support for such Authorized Client Devices not manufactured by Vocera.
- **“Customer Hosted Software (CHS)”** means certain Server Software provided by Vocera and hosted on server computers located at an End User facility, including Server Software for Vocera’s Alarm Management, Care Team Synchronization, Clinical Workflow Engine, Collaboration Suite, Engage, Messaging Platform, and Voice offerings.
- **“Designated Support Contact”** is defined as: for Customer Hosted Software: as specified in Table 2.1; and for Vocera Hosted Services: Any authorized administrator or user of the Vocera Hosted Service.
- **“Documentation”** means the specific materials listed under “Documentation” at vocera.com/legal, as updated by Vocera from time to time.
- **“Operating Environment”** means, as applicable, End User’s servers, WLAN and other hardware and software supplied directly to End User by third party vendors (i.e., exclusive of hardware and software embedded in the products supplied by Vocera).
- **“Product”** means one of the Vocera provided Authorized Client Devices or Software products included in End User’s System. By way of clarification, Vocera Hosted Services are addressed separately from, and not included within the definition of, “Product.”
- **“Services”** means, as the context requires, Support and On-Site Assistance.
- **“Software”** means the software licensed by Vocera pursuant to an End User License Agreement, in object code form only, for use with the System. “Software” is limited to software hosted by End User or on devices owned by End User and does not include software utilized by Vocera to provide the Vocera Hosted Services.
- **“Software Updates”** means the Software releases, service packs, build updates or emergency fixes released from time to time in accordance with the Vocera’s update policy for such Software.
- **“System”** means the combination of the Vocera Software, Authorized Client Devices and End User’s Operating Environment. “System” includes Customer Hosted Software, but does not include Vocera Hosted Software as defined below.
- **“Vocera Hosted Services (VHS)”** means certain services hosted by Vocera and/or its designee to which End User and certain End User affiliates will be provided electronic access over the Internet for use in conjunction with Vocera Client Software, including services for Vocera’s Secure Texting offering.

All other capitalized terms not otherwise defined in these Support Terms shall have the meanings provided in the applicable End User License Agreement, Supplemental Terms and Conditions or Badge Products Limited Warranty.

If Vocera hereafter posts any new or modified version of these Support Terms at www.vocera.com/legal, such new or modified version will apply to maintenance and support renewal terms that begin subsequent to the date of such posting.

2. Support Offerings. Vocera’s Support efforts are intended to address non-conformities of the Software or Vocera Hosted Services to the Documentation. Support is also intended to address non-conformities of the Vocera Hosted Services to the user documentation provided as a part of the Vocera Hosted Services.

2.1 Customer Hosted Software: There are two types of Support Offerings for Customer Hosted Software licensed on a perpetual basis: Standard and Premier. Customer Hosted Software licensed on a subscription basis includes Premier Support. For the Engage software solution, Vocera offers Premier Support but not Standard Support. Table 2.1 details the differences between the Standard and Premier Support. The Quote for the Support Offering will list the service level provided. End User may change End User’s Support Offering the next time End User either purchases a renewal Support term or increases the number of perpetual user licenses.

Table 2.1: Customer Hosted Software Support Offering Details		
	Support Offering / Service Level	
	Standard	Premier
Type of license: Perpetual Term	Available	Available
Type of license: Subscription Term	Not Available	Included
Software Maintenance	Software Updates	Software Updates
Technical Support Incidents	Unlimited	Unlimited
Support Availability (Telephone and Email)	All severities: 8am – 5pm in End User’s time zone (PT, MT, CT, ET, GMT), excluding U.S. weekends and holidays	Severity 1: 24 hour, 7 Day, 365 Days; Severities 2-3: 8am – 5pm in End User’s time zone, excluding U.S. weekends and holidays
Number of Designated Support Contacts	2 to 3	2 to 5
Number of Designated RMA Contacts	Up to 1	Up to 1 per site
Named Technical Support Engineer	No	Yes
Vocera Support Web Access	24 hour, 7 Day, 365 Days	
Telephone Support Numbers	See www.vocera.com/solutions-support	
Email Support Address	support@vocera.com	
Web Support URL	www.vocera.com/support	

2.2 Vocera Hosted Services: For Vocera Hosted Services, Vocera’s Support efforts consist of the following:

Table 2.2: Vocera Hosted Service Support Offering	
	Support Offering / Service Level
	Standard
Support Availability (Email Only)	8am-5pm Pacific Time, excluding weekends and holidays
Email Support Address	CustomerHelp@vocera.com
Web and Mobile	Hosted or Local VST help accessible through client

3. Support Term and Fees.

3.1 For Perpetual Term Software. If End User has licensed the Software for a Perpetual Term, then End User shall receive Support and Software Updates upon payment of a Support fee. For Support under this Section, the initial term starts on the date the applicable Vocera Software license is activated (either by shipment of a License Key or other means) and ends twelve (12) months following such shipment date. Software provided under a lease agreement between the parties may set forth a different initial term. To renew End User’s Support, Vocera must receive a Purchase Order from Reseller or End User, as the case may be, prior to the expiration of the initial term or any subsequent term (“Anniversary Date”). Upon Vocera’s acceptance of the Purchase Order, Vocera must receive

payment for such renewal term prior to the Anniversary Date. If payment is not received by the Anniversary Date then the Support will terminate. Vocera reserves the right to charge a reinstatement fee if Support is terminated for more than 60 days. Vocera has the right in its sole discretion to refuse to reinstate Support following such termination. Any reinstatement will be contingent upon the conditions to delivery of Support contained in Section 6 of these Support Terms being satisfied at the time the reinstatement is to begin. If End User so requests, Vocera will propose assistance to satisfy these conditions on a fee basis subject to a mutually agreed engagement letter prior to reinstatement of the terminated Support. All renewal terms are calculated from the applicable Anniversary Date, regardless of when End User chooses to renew or reinstate. All renewal terms are for 12 months, except as separately specified in a lease between the parties. Vocera will not increase the Support Offering price charged to End User for a one-year renewal term by more than five percent per year over the price charged to End User in the immediately preceding term, for the same covered Products and Support Offering.

3.2 For Vocera Hosted Services and other Subscription Term Software. If End User has subscribed to Vocera Hosted Services or licensed any Software for a Subscription Term, Support is included with the subscription fee for the Software without any additional charge to End User. For Support for a Subscription Term license, the initial term for Support starts on the issuance date of the applicable Vocera Software License Key, completion of deployment of Software, or the date customer is initially provided access to the Vocera Hosted Service offering, and continues for the duration of End User's Subscription Term for the Software.

4. Additional Users and Products for Perpetual Term Software. If End User has licensed the Software for a Perpetual Term, and subsequently purchases licenses for additional users or Products (an "Expansion") above and beyond End User's original configuration ("Original Configuration"), End User will be charged a fee for Support of such Expansion. This fee will cover one (1) year of Support of the Expansion, and when Vocera next issues a Quote for a one-year renewal of Support for the Original Configuration, such Quote will include an extension of Support for all such intervening Expansions so as to make their Support terms co-terminous with the Anniversary Date of Support for the Original Configuration. After End User's term for the Original Configuration expires, End User must pay all such amounts for extending Support for both the term of the Original Configuration and all Expansions, or Vocera shall have the option to suspend Support for the Original Configuration and such Expansions.

5. Technical Support Scope.

5.1 Support includes only Technical Support for the Software and/or Vocera Hosted Service used in conjunction with the Authorized Client Devices and requires that End User arrange to receive support for non-Vocera products (such as the wireless LAN, middleware, PBX, and integrated clinical systems) or hardware issues relating to Authorized Client Devices not manufactured by Vocera from End User's own internal resources, or from another third-party supplier. Third party software integrated into the Vocera Software is covered by Technical Support for purposes of this Section 5.

5.2 As a precondition to Vocera's Support obligations hereunder, End User must arrange to provide support for End User's personnel and agents. "User Support" means providing training, assistance and support to users of the Vocera Software or Vocera Hosted Services as applicable. User Support includes answering Vocera user questions and resolving problems that can be resolved by reading the Documentation as specified in Table 5.6(a) and 5.6(b) as applicable. Usually this level of support is provided by End User's own internal resources, or may be provided by a third party. If requested, Vocera will provide training to such User Support provider on a fee basis at Vocera's then current rates and subject to mutually agreed terms and conditions.

5.3 As a precondition to Vocera's Support obligations hereunder, End User must arrange to provide internal support for the operation of the Vocera Products with the System. This "Operational Support" includes Vocera systems administration, provisioning the technical infrastructure required to support Vocera and verifying problems reported by Vocera users. Operational Support provides information and support on a range of product configurations, set-up issues, System backup and restore procedures, usage and basic System troubleshooting, and information pertaining to the Software. Operational Support may be provided by the End User's own resources or by a qualified third-party. If requested, Vocera will provide training to such Operational Support provider on a fee basis at Vocera's then current rates subject to mutually agreed terms and conditions. End User is also responsible for maintaining current support contracts for third party products which are required for the End User's Vocera infrastructure.

5.4 “Technical Support” means support for those Incidents involving Customer Hosted Software that could not be resolved by Operational Support. For purposes of this Section, Technical Support includes recommendations on: (a) Software, including telephone consultation to assist the End User’s installation of the supported Software, functions and operation of the supported Software, the creation of workarounds that enable the temporary or permanent resolution of an Incident; (b) Authorized Client Devices, including the functioning of the Authorized Client Devices, the creation of workarounds for defects in the embedded software, or the creation of modifications to the Authorized Client Devices that enable the temporary or permanent resolution of an Incident as feasible. For Vocera Hosted Services, support is typically provided by email and web services rather than telephonically.

5.5 Vocera provides Technical Support during the hours specified for the Support Offering purchased (see Section 2.1 or 2.2 above, as applicable). Such Support, unless stated, does not include installation assistance, addition of new integrated systems or adapters, new functionality that requires a platform/adaptor upgrade, training and on-site support. Such additional services may be purchased on a fee basis at Vocera’s then current rates and subject to mutually agreed terms and conditions.

5.6 To obtain Support, End User’s Designated Support Contact must report the details of the problem to Vocera at the contact information appearing in Section 2, including the details of the Operational Support process that failed to resolve the problem (an “Incident”).

Table 5.6(a): End User and Vocera Responsibilities for Customer Hosted Software

End User Support Responsibilities	End User Operational Support Responsibilities	Vocera Technical Support Responsibilities
<ul style="list-style-type: none"> • Configure new and replacement Authorized Client Devices • Troubleshoot basic Authorized Client Device issues, including use, configuration, and clearing the data store • Respond to user questions regarding how to use Vocera capabilities • Identify users needing additional training • Set up new users • Maintain user profiles • Database add/change/deletes • Use Vocera reports to assess system utilization and success for individuals and department • For Voice Communications Only: Administer RMA process • Ensure users use appropriate Authorized Client Device attachments • Coach users on how to improve speech recognition 	<ul style="list-style-type: none"> • Respond to System administration questions on how to use the applicable Vocera administrative Console to manage users, groups, permissions, locations etc. • Verify problems reported by Vocera users and collect information regarding the reported problem • Attempt to resolve the reported problem by referring to Vocera Documentation, Support knowledge base and other support materials • As Designated Support Contacts, submit Support trouble tickets to Vocera Technical Support at the contact information appearing in Table 2.1 or 2.2 (as applicable) • Submit log files if requested by Vocera • To enable Vocera to diagnose and resolve issues, support use of (a) WebEx, Bomgar, Securelink or VPN or (b) for the Engage software solution, Engage Remote Support. The “Engage Remote Support” option is an alternate remote connectivity solution. For this solution, a remote connection is established using a SSH tunnel over port 22 to remote support servers. This access enables Vocera support analysts to remotely connect to the Engage server at the hospital. • Troubleshoot Authorized Client Device connectivity issues, including capturing wireless traces if required to diagnose problems • Validate that End User’s Operating 	<ul style="list-style-type: none"> • Troubleshoot issues with the Vocera Products, including performance within End User’s Operating Environment after the issues have been validated by End User’s Operational Support • Resolve problems and research questions which cannot be answered through reference to Documentation, Support knowledge base and other support materials • Inform End User of new releases and service packs, and advise on installation process <p>For Voice Communications Only:</p> <ul style="list-style-type: none"> • Assist End User in troubleshooting Authorized Client Device connectivity issues and speech recognition issues, in conjunction with End User’s wireless services resources. Assist in interpreting wireless traces and other diagnostic information captured by the End User • Provide warranty service for Vocera devices <p>For Engage Software Solution Only: With a minimum of two (2) weeks’ notice and subject to scoping by Vocera and the licenses purchased by the End User: additions and modifications to beds, departments, devices, rules, conditions, filters,</p>

	<p>Environment will support the Vocera Products</p> <ul style="list-style-type: none"> Assist and direct the troubleshooting of Authorized Client Devices including the setup and configuration of any systems required to program or configure such devices. 	<p>workflow pages, and adapter settings, system settings that will take less than four (4) hours to complete and test. Such changes must comply with customer’s purchased licensing.</p>
<p>The provider of User Support has the following general obligations: (i) to collect and record details regarding the reported problem; (ii) to verify and reproduce the problem; (iii) to resolve the problem if possible, by reference to Documentation and User Support training and materials; and (iv) to escalate the problem to Operational Support pursuant to the procedures below, if the problem cannot be resolved.</p>	<p>The provider of Operational Support has the following general obligations: (i) to collect and record details regarding the Incident; (ii) to work with User Support to jointly determine the Severity Level of the problem; (iii) to attempt to verify and reproduce the problem; (iv) to attempt to resolve the problem; and (v) if the problem cannot be resolved by reference to Vocera Documentation and support materials, to escalate the Incident to Vocera Technical Support.</p>	<p>Vocera Technical Support has the following general obligations: (i) to collect and record details regarding the Incident; (ii) to work with End User’s Operational Support to jointly determine the Severity Level of the problem; (iii) to attempt to verify and reproduce the problem; (iv) to attempt to resolve the problem; and (v) if the problem cannot be resolved to provide a work-around or fix per the guidelines in Table 7, Error Response by Severity Level.</p>

Table 5.6(b): End User and Vocera Responsibilities for Vocera Hosted Service

Customer System Administrator Support Responsibilities	Customer System Administrator Operational Support Responsibilities	Responsibilities of Individual User	Vocera Technical Support Responsibilities
<ul style="list-style-type: none"> Configure new and replacement Authorized Client Devices Troubleshoot basic Authorized Client Device issues, including use, configuration Setting up new users Maintain user profiles 	<ul style="list-style-type: none"> Verify problems reported by Vocera users and collect information regarding the reported problem Attempt to resolve the reported problem by referring to Vocera Documentation, Support knowledge base and other support materials Submit support tickets to Vocera Technical Support at the contact information defined in Section 1 (as applicable) Coordinate Submission of log files if requested by Vocera Troubleshoot Authorized Client Device connectivity issues, including capturing wireless traces if required to diagnose problems Validate that End User’s Operating Environment will support the Vocera Products Assist and direct the troubleshooting of Authorized Client Devices including the setup and configuration of any systems required to program or configure such devices. 	<ul style="list-style-type: none"> Consult with Vocera Technical Support through written communication for any technical issues Upload logs from Client Devices to aid Vocera Technical Support in addressing any technical issues. Maintain underlying operating system revisions to the latest compatible version on client devices. Update Client Device software to the latest released version available on the relevant app store. 	<ul style="list-style-type: none"> Troubleshoot issues with the Vocera Hosted Services and related Clients Resolve problems and research questions which cannot be answered through reference to the Documentation, Support knowledge base and other support materials.

<p>The provider of User Support has the following general obligations: (i) to collect and record details regarding the reported problem; (ii) to verify and reproduce the problem; (iii) to resolve the problem if possible, by reference to Documentation and User Support training and materials; and (iv) to escalate the problem to Operational Support pursuant to the procedures below, if the problem cannot be resolved.</p>	<p>The provider of Operational Support has the following general obligations: (i) to collect and record details regarding the Incident; (ii) to work with User Support to jointly determine the Severity Level of the problem; (iii) to attempt to verify and reproduce the problem; (iv) to attempt to resolve the problem; and (v) if the problem cannot be resolved by reference to Vocera Documentation and support materials, to escalate the Incident to Vocera Technical Support.</p>		<p>Vocera Technical Support has these general obligations: (i) collect and record details of the Incident; (ii) work with End User's Operational Support and users to determine Severity Level; (iii) attempt to verify and reproduce the problem; (iv) attempt to resolve the problem; and (v) if the problem cannot be resolved, to provide a work-around or fix per the guidelines in Table 7, Error Response by Severity Level.</p>
--	--	--	---

6. Conditions to Delivery of Support. Vocera's delivery of Support for Customer Hosted Software is subject to and conditioned on the following:

6.1 End User must obtain User Support and Operational Support as provided above.

6.2 End User must appoint a minimum of two individuals, up to the maximum specified in the appropriate column in Table 2.1 or 2.2 above (as applicable) for End User's Support Offering, to serve as the Designated Support Contacts between End User and Vocera. A Designated Support Contact should have an understanding of the Product components and features (such as obtained through attending Vocera training courses), have a working knowledge of wired and wireless networks, and End User's Operating Environment. Only Designated Support Contacts may escalate technical support requests to Vocera. Vocera reserves the right to reject technical support calls from individuals other than Designated Support Contacts. End User will provide Vocera in writing with the name and contact information of each Designated Support Contact and will notify Vocera promptly of any changes in End User's list of Designated Support Contacts. E-mail sent to support@vocera.com will satisfy the foregoing notification requirements.

6.3 Before escalating a problem to Vocera, End User's staff must escalate the problem internally to a Designated Support Contact, and End User must otherwise follow the Vocera defined escalation process and provided problem as requested by Vocera.

6.4 To help Vocera ensure that its Products meet the highest quality standards, End User will notify Vocera of any material failure, malfunction or error that End User detects in the Products, within 15 days of detecting the Product issue, and will provide Vocera with information to assist with determination and analysis of the problem.

6.5 In cases where End User requires Product support assistance from Vocera, End User will arrange for a remote access and connectivity to the System. Such access shall be remote, originating from Vocera's support center and requiring the use of the Internet.

6.6 End User will assign one of the Designated Support Contacts as a project manager responsible for success of deployment and on-going user satisfaction with Vocera Products. The project manager's responsibilities must include at a minimum, but not by way of limitation, (i) implementation of internal processes and procedures for use and maintenance of Vocera Products, (ii) regular audits that include evaluation of user behavior and skills with Vocera Products and assessment of user satisfaction with the Vocera Products, (iii) documenting user feedback and providing findings to Vocera on as-requested basis, (iv) assuring user training compliance and on-going knowledge dissemination and training and (v) acting as a liaison between End User and Vocera.

6.7 End User shall ensure that the Products and End User's Operating Environment follow regular IT maintenance schedules. The maintenance schedules must include at a minimum, but not by way of limitation, installation and testing of applicable Vocera Software versions, server operating system updates and maintenance, anti-virus update and maintenance, regular review and analysis of system logs, and regularly scheduled back-ups.

6.8 For all Customer Hosted Software other than the Engage software solution, End User must install and test the initial Software, and each subsequent Software Update. All emergency fixes for End User's specific installation must be installed and tested as soon as practicable, and must be maintained until installation of the next service pack or Software Release. All service packs or build updates must be installed and verified in the End User's environment within three months of general availability. All other Software Updates must be installed and verified in the End User's environment within six months of general availability (or such shorter period as Vocera reasonably advises is required, on a case-by-case basis, to avoid impaired operation and reliability of the Software). Vocera will have no obligation to provide Error Resolution for an Error or defect which has been repaired in a more current Software Update.

6.9 For the Engage software solution, installation of software updates will be scheduled in consultation with the customer and, in some cases (e.g., security patches), may require an expedited process. It is preferred that updates occur during normal business hours, since this is when both hospital, interoperability vendor partners, and Vocera support engineers are most readily available. Vocera understands the primary objective is to minimize the impact to patients, so Vocera will accommodate after-hours upgrades, as necessary. All software updates are delivered remotely to the hospital via secure download protocols. The ability to access these updates requires outbound access to an Internet-based update server on ports 22 and 443.

6.10 For both Customer Hosted Software, as well as Vocera Hosted Services if applicable, End User is responsible for the proper operation and maintenance of End User's Operating Environment. For Customer Hosted Software, this includes End User's wireless local area network, including access points, antennas, controllers and controller firmware versions compatible with the Voice Communications Software ("WLAN"). End User's WLAN must be designed, implemented and installed with capacity and coverage suitable for a voice application. End User acknowledges that Vocera may recommend changes to the Operating Environment to resolve certain issues, e.g., where the End User's WLAN does not comply with Vocera's WLAN guidelines in its Infrastructure Planning Guide available upon request.

6.11 For Vocera Hosted Services, Customer must provide necessary connectivity for any integration needs between the Vocera Hosted Service and Customer Hosted Software.

6.12 End User personnel should not make any changes to component of the Engage software solution that interoperates with an FDA regulated medical device such as patient monitoring, ventilators, etc. All changes to clinical workflow, whether implemented by End User or Vocera, should be formally approved according to End User's applicable internal protocols. End User personnel making changes to the Engage software solution should receive formal Vocera Engage administrator training. Vocera also strongly encourages Customer to limit the number of people who have Engage Advanced Support permissions to administer and make changes in order to reduce the chance of destabilizing Customer's system and implementing inconsistencies. Vocera strongly advises Customer to keep Vocera technical support informed of changes made to the Engage software solution. Vocera cannot consult or provide advice on changes that have the potential to cause adverse impact to patient care and safety, without knowledge of the changes being considered.

7. Determination of Error Severity and Response Times for Customer Hosted Software.

7.1 During the term of this Agreement, End User may submit a report to Vocera specifying Errors in the Software which End User requests to have corrected. "Error" means a verifiable and reproducible failure of the Software to conform in a material respect to the Documentation. When an Error has been identified through Vocera Technical Support, Vocera and End User will agree to the Severity Level of the Error and associated Vocera response times and resolution process as defined in Table 7 below:

Table 7: Error Response by Severity Level for Customer Hosted Software

Severity Level	Description	Response Times and Error Resolution
Severity 1: Emergency	Severity 1 means End User’s use of the Software with the Authorized Client Devices has completely shut down, or is suffering such loss of critical functionality that an entire department or site is unable to utilize the Vocera Software, and no work-around is available.	Provided Customer reports the issue via telephone through Vocera’s Telephone Support Numbers, Vocera will contact End User within 1 hour* of receipt of notice of the Incident to collect information and to work with End User’s Designated Support Contact to attempt to restore usage of the Vocera Software. Restoration of the Vocera Software may require changes to End User’s Operating Environment or network configuration, and may involve loss of data. If Vocera determines that the outage is due to an Error in Vocera Software, Vocera will engage our development staff to attempt a fix in the next available service pack and/or build update. If the Error in Vocera Software is causing repeated outages and no workaround is available, Vocera will engage our Engineering staff to attempt to deliver an emergency fix on a mutually agreeable timetable. For Severity 1 Incidents, both End User and Vocera will dedicate appropriate technical resources and provide continuous effort until basic Vocera system functionality is restored or the problem is isolated to a third-party component (i.e. PBX, MDM, server, network etc.).
Severity 2: Time-Critical	Severity 2 means the Vocera Software is functioning inconsistently and with limited capabilities significantly impairing End User’s usage and productivity, e.g. loss of certain administrative or reporting functions or Authorized Client Device features impacting multiple users, with no work-around available.	Vocera will contact End User within 4 hours* of receipt of notice of the Incident to collect information and to work with End User’s Designated Support Contact to attempt to restore the functionality of End User’s Vocera Software. Resolution may require shutting down the Vocera Software, or may require changes to End User’s Operating Environment or network configuration. If Vocera determines that the loss of functionality is due to an error in the Vocera Software, Vocera will engage our development staff to attempt to provide a fix in the next available service pack and/or build update.
Severity 3: Standard	Severity 3 means that individual components of the Vocera Software are functioning inconsistently and End User’s usage and productivity are slightly impaired, but End User can reasonably work around such inconsistency or impairment. Severity 3 Incidents include issues with administrative or reporting functions, and other issues impacting individual users or Authorized Client Devices (including RMA requests for Voice Communications Systems).	Vocera will contact End User within 24 hours of receipt of notice of the Incident to collect information and to work with End User’s Designated Support Contact to verify the problem.

* For Standard Support Offerings, Response Times will be measured during the time periods in which such Standard Support is available. For example, if a Severity 2 Error is reported at 3pm, Vocera will respond to the Designated Contact by 11am of the following Business Day.

Table 8: Error Response by Priority Level for Vocera Hosted Software

Priority Level	Description	Vocera Hosted Services Operational Action Time
Priority 1	Vocera Hosted Service outage for multiple End Users or degradation of critical functionality such that all Vocera Hosted End Users are unable to effectively use the service.	Vocera Operations team will begin working on reported issues within 15 minutes of receipt of notice
Priority 2	Vocera Hosted Service outage for one End User only or degradation of critical functionality such that multiple End Users are unable to effectively use the service.	Vocera Operations team will begin working on reported issues within 45 minutes of receipt of notice
Priority 3	Degradation of critical functionality such that one End User is unable to effectively use the service.	Vocera Operations team will begin working on reported issues within 120 minutes of receipt of notice
Priority 4	Vocera Hosted Service outage or degradation such that a single Vocera User is affected.	Vocera Operations team will begin working on reported issues within 8 hours of receipt of notice

7.2 For the Standard Support Offering for Customer Hosted Software, Response Time objectives apply to Incidents logged during the Telephone Support Availability hours for the Standard Support Offering. For the Premier Support Offering, Response Time objectives for Severity 1 Errors apply to Incidents logged 7x24, and Response Time objectives for Severity 2-4 apply to Incidents logged during normal business hours. The foregoing objectives do not include the time taken by End User to gather system information, transaction data and reproducible test cases necessary to determine the nature of the issue and to isolate defects in the Vocera Software. End User shall, upon reasonable request by Vocera, obtain and provide to Vocera system information, transaction data, and reproducible test cases as necessary to determine the nature of the Incident and to isolate any defects in the supported Authorized Client Devices and/or Software. Such system and transaction information shall be treated as End User’s Confidential Information and such defects shall be treated as Confidential Information of Vocera. Vocera shall provide End User with reasonable access to Vocera’s Incident database to review the status of End User’s Incidents.

8. Software Updates.

Vocera may, from time to time, provide End User with Software Updates. These Software Updates will generally be made available for download. For Vocera Hosted Services, Vocera will update the hosted environment as appropriate from time to time. In concert with such updates to the hosted environment, updates may be required to relevant Client Software which Vocera will make available through applicable third-party app stores and which, depending upon configuration settings, may occur automatically. For the Engage software solution, Software Updates include the following general areas:

- Engage platform and mobile software: These updates will include new features to existing modules of the Engage system, Engage Mobile, or software updates within the core platform. Examples include customer issues found in prior releases, bug fixes or enhancements to Engage Mobile, and updates to improve system performance and maintenance.
- New operating system (OS) updates: These updates will include OS modifications needed within the core platform (Linux).
- Support for new mobile devices: Qualifying new mobile devices specifically for Engage Mobile is an ongoing process at Vocera. Customers continually request new mobile devices for qualification, such as

Apple's iPhone 6, the Vocera badge, the latest Samsung Galaxy device or the next generation device that enters the market.

- New or updated regulated medical device adapters: These verifications are for new or updated versions of medical devices being requested by customers. This will enable us to provide support for the latest data and alarms from medical devices. Medical devices consist of (but are not limited to) patient monitors, ventilators, IV Pumps, and other middleware aggregation products such as Capsule™.
- New non-regulated input and output adapters: These verifications include all nurse call systems or a new alert communication system. It also includes new industry standard protocols for HL7, XML or an IHE supported profile.

9. On-Site Assistance.

Upon End User's request and subject to availability, Vocera may furnish qualified personnel for on-site assistance to End User for implementation and testing and to resolve Incidents, on a fee basis at Vocera's then current rates for time, materials and travel and subject to mutually agreed terms and conditions or a written engagement letter.

10. Version Retirement (Customer Hosted Software)

Vocera will make Support Services available to End User for any major release for a minimum of two years

from the general availability date, subject to and conditioned on End User:

- (a) Installing and validating updated Software for End User's specific Operating Environment in accordance with Section 6.8 of these Support Terms (or such shorter period as Vocera reasonably advises is required, on a case-by-case basis, to avoid impaired operation and reliability of the Software); and
- (b) Maintaining these builds until installation of the next service pack, build update or Software release, as applicable.

Subject to the foregoing, Vocera reserves the right to discontinue Support with respect to any version of Software in whole or in part, should Vocera, in its sole discretion, determine that continued support is no longer practicable. Vocera will give End User written notice at least six months prior to any such discontinuance, and will refund any prepaid fees (if applicable) for the affected Support that are not accrued as of discontinuance. Support of any Software update is governed by the Support Services offered at the time of installation.

11. Order; Termination.

11.1 Order. All orders for Services are subject to the terms and conditions contained in these Support Terms and the applicable written quote or agreement signed by Vocera or a Reseller. All orders shall be initiated by written Purchase Order. Any different or additional terms preprinted on any End User Purchase Order or similar document are hereby rejected, notwithstanding any terms set forth therein to the contrary.

11.2 Termination. Notwithstanding written acceptance of a Purchase Order, Vocera shall not be obligated to deliver Services where (a) there is an arrears of 30 days or more on payments owing to Vocera or a Reseller in respect of Products or Services purchased by End User, or (b) the amount of the Purchase Order plus outstanding payments owing to Vocera or a Reseller in respect of Products and Services purchased by End User exceeds the applicable credit limit established by Vocera or (c) where End User is otherwise in breach of these Support Terms.

11.3 Effect of Termination. Upon expiration or termination of the Support for any reason:

- (a) All rights and obligations under these Support Terms shall immediately terminate, except as expressly set forth herein, and any outstanding obligations of End User to pay any amounts to Vocera or a Reseller shall remain in effect until paid.
- (b) End User shall be permitted to use the Software included in the Systems for as long as its applicable End User License Agreement is in full force and effect, provided that End User is not in default of such End User License Agreement.

(c) In the event of termination by Vocera due to End User's uncured breach, no refunds or credits will be due. In the event of termination by End User due to Vocera's uncured breach, Vocera will refund any prepaid fees (if applicable) for the affected services that are not accrued as of discontinuance.

11.4 Survival. Any definitions, limited warranty obligations, disclaimers, limitations of liability, and any other provisions that by their nature should survive, shall survive any expiration or termination of the Support.

12. Limited Services Warranty.

12.1 Limited Services Warranty. Subject to Section 12.2 below, Vocera will perform the Services in a timely, commercially reasonable and workmanlike manner, materially conforming to any additional representations concerning the Services to which Vocera has agreed in writing and subject to the provisions of these Support Terms and provisions of any written agreement executed by End User. This limited warranty extends only to the original recipient of the Services. The original recipient of the Services must provide written notice to Vocera that the Services are not as warranted no later than 30 days after completion of the applicable Services, or the right to assert such claim will be deemed waived. As the sole and exclusive remedy, and at Vocera's sole discretion, the defective Services will either be reperfomed to the extent they are capable of being reperfomed and to the extent necessary to cure such breach or Vocera will refund the pro-rata price of the Support Offering attributable to the defective Services.

12.2 Limited Services Warranty Exclusions. Vocera makes no warranty and accepts no responsibility for Services provided at no charge or for failures in Services due to: (a) deficiencies in or the late delivery of materials required from End User; (b) non-conformities of End User systems to specifications in the description of Services in an applicable Vocera engagement letter for professional services; (c) the inaccessibility or insufficient accessibility of End User systems or third party systems required by End User; (d) End User's failure to perform its responsibilities as required under these Support Terms and Vocera's published policies applicable to the Services; or (e) the lack of reasonable cooperation on End User's part as required under these Support Terms and Vocera's published policies applicable to the Services.

12.3 Disclaimer. EXCEPT FOR THE EXPRESS WARRANTY IN SECTION 12.1, ALL EXPRESS, IMPLIED OR STATUTORY TERMS, CONDITIONS, REPRESENTATIONS, AND WARRANTIES (INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE) ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. VOCERA'S SOLE OBLIGATION REGARDING THE IMPLIED WARRANTY OF NONINFRINGEMENT SHALL BE AS SET FORTH IN THE DEFENSE OF CERTAIN CLAIMS SECTION OF THE VOCERA SUPPLEMENTAL TERMS AND CONDITIONS OR TERMS AND CONDITIONS OF QUOTATION, AS APPLICABLE. VOCERA'S RESELLERS HAVE NO AUTHORITY TO MAKE ANY REPRESENTATIONS OR COMMITMENTS ON BEHALF OF VOCERA OR TO MODIFY, IN ANY RESPECT, THIS LIMITED WARRANTY, ANY OF ITS PROVISIONS OR ANY RIGHTS HEREUNDER.

**Attachment 6
City of Austin, Texas
NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION**

City of Austin, Texas

Equal Employment/Fair Housing Office

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Non-Discrimination and Non-Retaliation Policy set forth below.

**City of Austin
Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy**

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.



The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination and non-retaliation employment policy, the Contractor has expressly adopted the provisions of the City’s Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor’s Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor’s policy, but will also supersede the Contractor’s policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE THE CITY A COPY OF THE CONTRACTOR’S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY’S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR’S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 and the City’s Non-Retaliation Policy may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4 and the Non-Retaliation Policy.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor’s separate conforming policy, which the Contractor has executed and filed with the City, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payment, the Contractor’s Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 7 day of April, 2020

CONTRACTOR Vocera Communications, Inc.

Authorized Signature

Title Vice President & General Counsel

EXHIBIT B
Vocera Communications, Inc.'s quote dated 01/06/20



Vocera Communications, Inc.
P.O. Box 809087
Chicago, IL 60680-9087
T (408) 882-5600 F (408) 882-5601

Quote Number	SMIT003-166262-003
Quote Created Date	January 06, 2020
Quote Expiration Date	March 31, 2020
Quote Prepared by	Craig Smith
Phone	4088825889
Cell	4077977763
Email	csmith@vocera.com

Customer Quotation

Subject to Additional Terms & Conditions contained below

Customer Name	Joe Faulk
Company Name	Austin Public Library
Street Address	635 N. Pleasant Valley Road
City, State Zip	Austin, Texas 78702
Phone / Fax	(512) 974-7304 /
Email	joe.faulk@austintexas.gov

Quote Description	Austin Public Library - License Expansion & Additional Hardware
Account Number	EU AUSTINP TX01
Vocera Support Services	Standard

Qty	Product SKU	Product Description	Unit Price	Extended Price
Vocera Software				
6	910-00910	Mobility Package, Add-On, 25 Users, NA	\$4,800.00	\$28,800.00
Vocera Software Subtotal				USD \$28,800.00
Vocera Hardware				
103	225-01027	B3000n, Dual-Band, Black Badge with 2 Year Extended Warranty	\$410.00	\$42,230.00
160	230-01924	B3000 Series Battery, Black	\$39.00	\$6,240.00
15	230-02008	B3000, Charger, 8-Bay, NA	\$210.00	\$3,150.00
10	230-01995	B3000, Double-Breakaway Lanyard, 25-Pack	\$90.00	\$900.00
2	230-01985	B3000, Universal Clip, 25-Pack	\$54.00	\$108.00
Vocera Hardware Subtotal				USD \$52,628.00
Software Maintenance & Support Services				
6	920-00910	Mobility Pkg, Std Supp, Add-On 25 Users	\$1,452.00	\$8,712.00
Software Maintenance & Support Services Subtotal				USD \$8,712.00
TOTAL SYSTEM				USD \$90,140.00

Note: Prices are in USD \$ and Exclude Taxes and Freight.
Note: Please Reference the Vocera Quote Number on your Purchase Order.

Notes:

Vocera SW Maintenance for Year 2 (2021) will be for \$8,973.36.
Vocera SW Maintenance for Year 3 (2022) will be for \$9,242.56.
Vocera SW Maintenance for Year 4 (2023) will be for \$9,519.84.
Vocera SW Maintenance for Year 5 (2024) will be for \$9,805.44.

Exhibit C
Supplemental Terms and Conditions for Vocera Solutions
Territory: United States and Canada

1. **Definitions.** Capitalized terms used herein shall have the same meaning given them in the Quote or other agreements to which Vocera has agreed in writing, unless otherwise defined herein. In these Supplemental Terms and Conditions, the following words and expressions have the following meanings:

1.1 **“Billing Period”** is the billing period that may be specified in a Quote for Subscription Term Products.

1.2 **“Business Day”** refers to a day of the week other than Saturday, Sunday and any state or national holiday at either the Vocera headquarters or End User location.

1.3 **“Confidential Information”** shall have the meaning set forth in Section 7 below (Confidential Information).

1.4 **“End User”** means the original user identified on the cover page of this Agreement, including any Facilities designated in Attachment 2.

1.5 **“EULA”** means an End User License Agreement applicable to the Software Products, and attached to this Master Purchase Agreement.

1.6 **“Hardware”** means the Vocera wireless communications badge purchased as part of a Vocera Communications System.

1.7 **“Hardware Warranty”** means the Badge Products Limited Warranty for Hardware purchased as part of a Vocera Communications Software system, and if applicable to End User, attached to this Agreement.

1.8 **“Intellectual Property Rights”** means all legally cognizable rights with regard to patent laws, copyright laws, trademark laws, trade secret laws, and similar laws with respect to intellectual property throughout the world.

1.9 **“License Key”** means the coded token or username and password or other form of access control issued by Vocera which enables End User to use the Software.

1.10 **“License Type”** means the identification of whether the license for a Software Product is for a Perpetual Term or Subscription Term as specified in the Quote.

1.11 **“Perpetual Term”** means the duration of a Software license that continues for the length of the copyright in the associated Software, subject to the termination provisions of the EULA.

1.12 **“Price”** means the price of a Product set forth in the applicable Quote.

1.13 **“Product”** means one of the Vocera Hardware and/or Software products referred to in a Quote.

1.14 **“Product Documentation”** means the specific materials listed under “Product Documentation” at www.vocera.com/legal, as updated by Vocera from time to time.

1.15 **“Purchase Order”** means End User’s purchase order for Products specified in a Quote issued by Vocera or an authorized Vocera reseller.

1.16 **“Quote”** means an outstanding Vocera firm written quotation or price list specifying the Product sold, Software licensed (including total number of authorized users), or Services to be provided by Vocera to End User hereunder.

1.17 **“Service”** means a service offered by Vocera, including, but not limited to, professional services, education, and technical support (described in the applicable Software Maintenance and Technical Support policy defined below).



1.18 “Software” means the Vocera Communications Software, Vocera Secure Messaging Software and/or Vocera Care Transition Software identified in End User’s Purchase Orders submitted to Vocera under this Agreement.

1.19 “Software Maintenance and Technical Support” means the applicable Vocera Software Maintenance and Technical Support policy which is posted at www.vocera.com/legal and attached to this Agreement.

1.20 “Subscription Term” means the finite time period during which either use of a Software Product is licensed or a service is provided as specified in the Quote.

1.21 “USD” means United States Dollars.

1.22 “Vocera Care Transition Software” means the Vocera Care Transition software products licensed by Vocera pursuant to a EULA, in object code form only, for use with a Vocera Care Transition system.

1.23 “Vocera Communications Software” means the software licensed by Vocera pursuant to a EULA, in object code form only, for use with a Vocera Communications system.

1.24 “Vocera Secure Messaging Software” means the software licensed by Vocera pursuant to a EULA, in object code form only, for use with a Vocera Secure Messaging system.

2. Ordering.

2.1 Firm Purchase Orders. All Purchase Orders are firm and non-cancelable upon issuance by End User. End User may not cancel any Purchase Order or portion thereof after issuance unless Vocera has failed timely to notify End User of acceptance in accordance with Section 2.2 below.

2.2 Purchase Order Acceptance. No Purchase Order or change in Purchase Order shall be binding upon Vocera unless and until accepted by Vocera by written notice to End User or until Vocera ships all of the Products specified on the Purchase Order. Vocera will notify End User within five Business Days of Vocera’s receipt of a Purchase Order or requested change in a Purchase Order of: (a) Vocera’s acceptance or rejection thereof; and (b) the date estimated by Vocera for shipment of the Products ordered. Any Purchase Order not affirmatively accepted or rejected by Vocera as set forth above will be deemed rejected.

2.3 Arrears in Payment. Notwithstanding written acceptance of a Purchase Order for Products or Services, Vocera shall not be obligated to ship Products or perform Services where (a) End User is in arrears 30 days or more on payments owing to Vocera, or (b) the amount of the Purchase Order plus outstanding payments owing to Vocera by End User exceeds the credit limit established by Vocera for End User or (c) where End User is otherwise in material breach of an Agreement.

3. Shipment and Acceptance of Hardware Products.

3.1 Shipping. Anticipated shipment dates for Hardware Products shall be as specified in Vocera’s written acceptance of the Purchase Order. Vocera will package and ship the Hardware Products, EX WORKS Vocera’s point-of-origin (in accordance with Incoterms 2000). The Hardware Products will be shipped to the location specified on the Purchase Order, by a mode of shipment selected by Vocera and agreed upon by End User. In the absence of specific shipping and routing instructions, Vocera reserves the right to make selections of common carrier and method of shipment. Vocera shall endeavor to obtain commercially reasonable rates from its shipping vendors for shipments hereunder. Title to the Hardware (except title to Software incorporated therein), and risk of loss or damage will pass to End User upon delivery of the Hardware Products by Vocera to a common carrier. Vocera reserves the right to make partial shipments by line item to End User and invoice End User for such partial shipments. If the shipment of a Hardware Product is delayed by more than 10 Business Days from the anticipated shipment date provided by Vocera, End User’s sole and exclusive remedy for such late shipment is the right to cancel the order on two Business Days’ notice to Vocera.

3.2 Acceptance. Within 15 days following shipment of any Hardware Product by Vocera, End User may notify Vocera that the Hardware Product is “dead on arrival” or fails to conform to the Product



Documentation on first use (“Out-of-Box Failure”). Vocera will have 10 days to respond or issue a Return Material Authorization (RMA) number in accordance with the Hardware Warranty. Vocera will ship a new replacement Hardware Product upon receipt of the affected Product, which is to be returned to Vocera, freight collect. The foregoing is End User’s sole and exclusive remedy for an Out-of-Box Failure. If no Out-of-Box Failure of a Hardware Product is reported as above, such Hardware Product shall be deemed irrevocably accepted at the end of the stated period, any subsequent problems shall be addressed through Vocera’s Hardware Warranty program.

4. Prices and Payment.

4.1 Prices and Taxes. The Prices do not include shipping charges, insurance, or sales, use, excise, withholding or other taxes, tariffs and duties. Consequently, End User shall pay, or reimburse Vocera for, the gross amount of all shipping charges and any present or future sales, use, excise, withholding or other taxes, tariffs and duties applicable to the sale or furnishing of any Products. In lieu of a specific tax, End User may provide Vocera with a tax exemption certificate acceptable to the applicable taxing authority.

4.2 License Type and Fees for Software Products. Vocera Software may be licensed either for a Subscription Term or a Perpetual Term, as further specified on the Quote. Vocera will issue the initial invoice for the Prices for the Products on the date of issuance of the applicable License Key. Vocera will issue such License Key to the End User email address designated on the Quote or such other email address provided to Vocera in writing. End User agrees issuance of such License Key to such End User email address shall constitute delivery of the Software which shall be deemed accepted upon such delivery.

(a) For Subscription Term Software. If End User’s Quote specifies a Subscription Term or otherwise identifies a Billing Period of fixed period of time, then such Software shall be considered licensed for a fixed Subscription Term. At the conclusion of each new or renewal Subscription Term, the Subscription Term will automatically be extended for three (3) months unless, prior to the end of such term, either (i) Vocera issues a Quote for an extended Subscription Term and End User issues and Vocera accepts a corresponding Purchase Order or (ii) either party provides written notice of non-renewal to the other. Where the Subscription Term is extended, but no new Quote applies, the pricing set forth in the original quote will continue to apply. Any initial, renewal or modified Subscription Term will take effect upon issuance by End User and acceptance by Vocera of a corresponding Purchase Order.

(b) For Perpetual Term Software. Unless End User’s Quote specifies a Subscription Term (as described in Section 4.2(a) above), End User’s license shall be for a Perpetual Term.

(c) For Pilot Software Licenses. From time to time, Vocera may also issue a pilot license for certain Software on a trial basis, in which case the term shall be limited to the term specified by Vocera in writing.

5. Termination.

5.1 Effect of Termination. Upon termination of this Agreement for any reason (a) End User shall immediately discontinue all use of the corresponding Software Products, (b) the provisions of this Agreement pertaining to the confidentiality, non-use and nondisclosure of Confidential Information (as defined below) in Section 7 and Sections 8, 9 and 10 shall survive, and (c) within ten (10) days of termination, End User shall return to Vocera all copies of the corresponding Software (including updates and enhancements) and Product Documentation or other related materials.

6. Product Changes. Vocera shall have the right, in its absolute discretion, without liability to End User, to update to provide new functionality or otherwise change the design of any Product or to discontinue the manufacture or sale of any Product. Vocera shall notify End User at least 90 days prior to the delivery of any Product which incorporates a change that adversely affects form, fit or function (“Material Change”). Vocera shall also notify End User at least 90 days prior to the discontinuance of manufacture of any Product. Notification will be made as soon as reasonably practical for changes associated with regulatory or health and safety issues.

7. Confidential Information.

7.1 Return of Information. Upon the expiration or termination of the End User Agreement, if applicable, or the Quote Expiration Date, the Receiving Party shall, upon request from the Disclosing Party: (i)

Vocera Communications, Inc.

Supplemental Terms and Conditions for Vocera Solutions 935-00009 Rev G 190611



return to the Disclosing Party all documents, samples, tapes, magnetic disks, CDs, and other tangible items containing or representing the Disclosing Party's Confidential Information and all copies thereof (other than Products and Product Documentation already paid for by End User) in whatever form; (ii) erase or destroy all of Disclosing Party's Confidential Information contained in computer memory or data storage apparatus; and (iii) certify to the Disclosing Party in writing signed by a duly-authorized officer of the Receiving Party that the Receiving Party has complied with the terms of this Section.

8. General.

8.1 Notices. Any notice required to be given hereunder shall be in writing and shall be given by facsimile or email (confirmed by regular mail), personal delivery (including by professional courier), or mailing (by first class prepaid mail, return receipt requested). Notices to Vocera shall be sent as follows:

Notices to Vocera Accounts Receivable:	
Address:	Vocera Communications, Inc. Attention: Accounts Receivable 525 Race Street San Jose, CA 95126-3495
Telephone:	408-882-5100
Facsimile:	408-882-5101
E-mail:	accountsreceivable@vocera.com
Other Notices to Vocera:	
Address:	Vocera Communications, Inc. Attention: Law Department 525 Race Street San Jose, CA 95126-3495
Telephone:	408-882-5990
Facsimile:	408-882-5901
E-mail:	LawDepartment@vocera.com
Payments (unless otherwise agreed in writing) should be made by one of the following methods:	
Checks:	
Address:	Vocera Communications, Inc. Attn: Accounts Receivable P.O. Box 809087 Chicago, IL 60680-9087
Domestic Wire Transfer:	
To:	[REDACTED]
Routing & Transit #:	[REDACTED]
For Credit Of:	Vocera Communications, Inc.
Credit Account #:	[REDACTED]
By Order Of:	<i>insert name of Payor and list of invoices paid</i>
International Wire Transfer	
Pay To:	US BANK N.A.



Swift Code:	[REDACTED]
For Credit Of:	Vocera Communications, Inc.
Final Credit Account #:	[REDACTED]
By Order Of:	<i>insert name of Payor and list of invoices paid</i>

Notices to End User shall be sent to any address specified in Attachment 1 of this Agreement. In the case of personal delivery, notice shall be deemed to have been given upon actual receipt. In the case of email or facsimile, notice shall be deemed to have been given upon the date the transmitting machine confirms such transmission. In the case of mailing, such notice shall be deemed to have been given seven Business Days after such mailing. The foregoing shall not be construed as limiting Vocera's right to give notice by posting updated information on Vocera's website to the extent otherwise provided herein.

8.2 Relationship of Parties. Nothing in the Agreement or any other document or agreement between the parties shall constitute or be deemed to constitute a partnership between the parties. The relationship between the parties shall be that of seller and buyer, respectively. End User, its officers, agents and employees, shall under no circumstances be considered the officers, agents, employees or representatives of Vocera. Neither party shall have the right to enter into any contracts or binding commitments in the name of or on behalf of the other party in any respect whatsoever.

8.3 Assignment. The Agreement is personal to the parties, and neither party may assign or otherwise transfer any of its rights or obligations hereunder, whether voluntarily or otherwise, without the prior written consent of the other; provided, however, that either party may assign in connection with an acquisition of all or substantially all of the assets or equity of such party by a third party. Any other attempted assignment or transfer without such consent shall be null and void. Subject to the foregoing, the Agreement will inure to the benefit of and be binding upon the permitted successors and assigns of the parties.

8.4 No Other Agreements. All previous agreements and arrangements (if any) made by Vocera and End User and relating to the subject matter hereof are hereby superseded. This Agreement, including all attachments and incorporated policies, embodies the entire understanding of the parties with respect thereto. This Agreement may only be amended by a writing signed by the parties. The foregoing does not limit Vocera's rights to provide, establish, post, publish, or amend Product Documentation, materials, and policies subject to the express limitations in this Agreement.

8.5 Waiver. No waiver or amendment of any provision hereof shall be valid unless in writing. Any waiver shall only be applicable to the specific incident and occurrence waived. The failure by Vocera to insist upon strict performance, or to exercise any rights hereunder, shall not act as a waiver.

8.6 Force Majeure. Neither party shall be liable for any failure to perform any of its obligations hereunder (other than the payment of money) which results from an act of God, the elements, fire, flood, component shortages, terrorism, riot, insurrection, industrial dispute, accident, war, embargoes, restrictions imposed by statute, governmental regulation or the order of a court of competent jurisdiction, or any other cause beyond the reasonable control of the party.

8.7 Interpretation. Headings in any portion of this Agreement are for convenience only and will not in any way define or affect the meaning, construction, or scope of the provisions hereof. If any provision of this Agreement is deemed to be invalid, illegal or unenforceable, such determination shall not impair or affect the validity of the remaining provisions.

8.8 Injunctive Relief. Each party acknowledges that the disclosure of Confidential Information to the other party creates a relationship in which each is placing confidence and trust in the other, and that the unauthorized disclosure or use of such information would cause irreparable harm and significant injury that may be difficult to ascertain. Accordingly, each party agrees that, notwithstanding anything in the Agreement to the contrary, a party may seek to enforce its rights with respect to the protection of such party's Confidential Information or Intellectual Property Rights hereunder, or the licensing of software, through equitable relief in a court of competent jurisdiction, including but not limited to an immediate injunction, and each party hereby waives any argument that the other has an adequate remedy at law.

8.9 Compliance with Law. Each party shall carry out its activities under the Agreement in full compliance with all applicable laws, including, without limitation, the U.S. Export Administration Act of 1979, as amended, the Export Administration Regulations thereunder, and the export laws and regulations of other jurisdictions as applicable. The United Nations Convention on the International Sale of Goods, and any local implementing legislation shall not apply to the Agreement.

8.10 Counterparts. If an Agreement is executed in counterparts, the counterparts when executed and delivered, shall each be deemed an original and taken together shall constitute one and the same instrument.

8.11 Language. The parties have expressly requested and required that these Supplemental Terms and Conditions and all other related policies and documents be drawn up in the English language. Les parties conviennent et exigent expressément que ce Contrat et tous les politiques et documents qui s'y rapportent soient rédigés en anglais. If a version of these Supplemental Terms and Conditions exists in a different language, the English language version shall prevail to the extent of any inconsistency.

8.12 Screening of Certain Personnel.

(a) Vocera obtains pre-employment background screening reports as a condition of employment. All pre-employment inquiries are limited to information that affects job performance and the workplace. Screening is conducted in accordance with applicable federal and state laws including the Fair Credit Reporting Act (FCRA). The screenings are by an outside agency. The screening report includes information concerning driving record, education records, and civil/criminal court records (over the last seven years).

(b) All employees that are expected to provide professional services at the End User site are required to take a standard drug urine test designed to detect casual drug use that occurred within the past 72 hours. Testing is performed at Substance Abuse and Mental Health Services Administration (SAMHSA)-certified laboratories. The drug test is a ten panel test that includes and supplements the federally mandated (SAMHSA/DOJ) five-drug panel. The ten panel screens for the presence of the following drugs and drug classes: amphetamines (amphetamine and methamphetamine), barbiturates (amobarbital, butalbital, pentobarbital, phenobarbital, and secobarbital), benzodiazepines, cocaine metabolite, marijuana metabolites, methadone, methaqualone, opiates (codeine and morphine), phencyclidine, and propoxyphene.

8.13 Compliance with Disclosure Law. To the extent required by law the following provision applies: End User and Vocera agree to comply with the Omnibus Reconciliation Act of 1980 (P.L. 96-499) and its implementing regulations (42 CFR, Part 420). Vocera further specifically agrees that until the expiration of four (4) years after furnishing services and/or products pursuant to this Agreement, Vocera shall make available,



upon written request of the Secretary of the Department of Health and Human Services, or upon request of the Comptroller General, or any of their duly authorized representatives, this Agreement and the books, documents and records of Vocera that are necessary to verify the nature and extent of the costs charged to End User hereunder. Vocera further agrees that if Vocera carries out any of the duties of this Agreement through a subcontract with a value or cost of ten thousand dollars (USD 10,000) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives the subcontract, and books and documents and records of such organization that are necessary to verify the nature and extent of such costs.

8.14 Debarment. Vocera represents that (i) it has not been convicted of a criminal offense related to health care, and (ii) it is not currently listed by a federal agency as debarred, excluded or otherwise ineligible for participation in federally funded health care programs. Vocera shall notify End User immediately, in writing, of any change in this representation during the term of this Agreement. Such change in circumstances shall constitute cause by the End User to immediately terminate this Agreement. For purposes of this paragraph, Vocera is defined as the entity entering into this contract, and/or its principals, employees, directors and officers and shareholders (provided, however, that, if Vocera is publicly traded, the term "Vocera" shall not include shareholders owning publicly traded shares of Vocera).

8.15 Personal Inducements. Vocera represents and warrants that no cash, equity interest, merchandise, equipment, services or other forms of remuneration have been offered, shall be offered or will be paid or distributed by or on behalf of Vocera to End User and/or the employees, officers, or directors of End User or its member hospitals, or, to any other person, party or entity affiliated with End User or its member hospitals, as an inducement to purchase or to influence the purchase of products or services by End User from Vocera.

8.16 Conflicts of Interest. Except as may be disclosed in writing by Vocera, Vocera represents that no employee, director or officer of End User or any member hospital of End User is a partner, member or shareholder of, or, has a direct ownership interest in Vocera. For purposes of this Section, the term "direct ownership interest" shall include, but not be limited to, the following transactions or relationships between an employee, director or officer of End User or any member hospital of End User and Vendor: (a) consulting fees, honoraria, gifts or other emoluments, or "in kind" compensation; (b) equity interests, including stock options, of any amount (or entitlement to the same); (c) royalty income (or other income) or the right to receive future royalties (or other income); (d) any non-royalty payments or entitlements to payments; or (e) service as an officer, director, or in any other role, whether or not remuneration is received for such service. A breach of any representation under this Section shall be grounds for immediate termination of this Agreement.