

# **DIEBOLD**<sup>®</sup>

## ELECTION SYSTEMS

P.O. Box 1019  
 Allen, TX 75013  
 469-675-8990  
 800-433-8683 (VOTE)  
 Fax (214) 383-1596

**DRAFT**  
**SUBJECT TO MODIFICATION**  
**ADA Compliant**  
**Voting System**  
**Agreement**

<b>CUSTOMER:</b>	<u>Leon County, Florida and Ion Sancho, as Supervisor of Elections</u>	<b>DIEBOLD ELECTION SYSTEMS, INC.</b>
<b>Addresses For Notices and Billing:</b>	301 S. Monroe Street, Suite 502 340 Tallahassee, Florida 32301  <u>Supervisor of Elections</u> <u>315 S. Calhoun Street, Suite 110</u> <u>Tallahassee, Florida 32301</u>  Attn: <u>Parwez Alam, County Administrator</u> <u>Commissioner</u> Attn: <u>Ion Sancho, Supervisor of Elections</u>	P.O. Box 1019 Allen, TX 75013 Overnight Deliveries: 1253 Allen Station Pkwy. Allen, TX 75002 Attn: Contracts Department
<b>For Shipping (if different):</b>		
<b>Contacts:</b>	<u>Parwez Alam, County Administrator</u> <u>Ion Sancho, Supervisor of Elections</u> <u>Commissioner</u>	Yolanda Hawkins, Contracts Department Sales Representative
<b>Phone:</b>	<u>850-606-5300</u> <u>850-606-8683</u>	469-675-8990
<b>Fax:</b>	<u>850-606-5301</u> <u>850-606-8601</u>	214-383-1596
<b>Email:</b>	<u>Parwez@leoncountyfl.gov</u> <u>ION@leoncountyfl.gov</u>	<u>yhawkins@dieboldes.com</u>

Diebold Election Systems, Inc. ("DESI"), and Leon County and Ion Sancho, as Supervisor of Elections, ("Customer" and, together with DESI, the "Parties") hereby enter into this ADA Compliant Voting System Agreement ("Agreement") as of the date of the last signature set forth below (the "Effective Date"). This Agreement consists of this "Signature Page," the below standard terms and conditions, and the following exhibits, each attached hereto and incorporated herein by this reference:

- Exhibit A – Pricing and Payment Schedule
- Exhibit B – Software License and Maintenance Services Schedule
- Exhibit C – Hardware Warranty Services Schedule

The parties have executed this Agreement by their duly authorized representatives as of the Effective Date.

LEON COUNTY, FLORIDA		DIEBOLD ELECTION SYSTEMS, INC.	
By: <u>Bill Proctor, Chairman</u> <u>Board of County</u> <u>Commissioner</u> <u>Authorized Signature</u>	Date	Authorized Signature	Date

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# DRAFT

<u>APPROVED AS TO FORM</u>		Printed Name, Title	
<u>Office of the County Attorney</u> <u>Leon County, Florida</u>		Printed Name, Title	
By:			
<u>County Attorney</u>	<u>Authorized Signature</u>	<u>Authorized Signature</u>	<u>Date</u>
<u>ATTEST:</u>		Printed Name, Title	
<u>Bob Inzer, Clerk of the Circuit Court</u> <u>Leon County, Florida</u>			
By:	<u>Date</u>		
Printed Name, Title			

Ion Sancho, Supervisor of Elections  
Leon County, Florida

By: \_\_\_\_\_ Date \_\_\_\_\_

## STANDARD TERMS AND CONDITIONS

### 1. Definitions

- 1.1. "DESI Hardware" means hardware manufactured by DESI and delivered by DESI hereunder.
- 1.2. "DESI Software" means software and firmware owned by DESI and licensed by DESI hereunder, in object code form, including all documentation therefor.
- 1.3. "Effective Date" has the meaning set forth in the Signature Page.
- 1.4. "Specifications" means descriptions and data regarding the features, functions and performance of the DESI Hardware and/or DESI Software, as set forth in user manuals or other applicable documentation or as set forth in submittals to the Florida Secretary of State, all of which will be provided to customer.
- 1.5. "System" means, collectively, the DESI Software, DESI Hardware and any Third-Party Products provided hereunder.
- 1.6. "Third-Party Products" means any software or hardware obtained from third-party manufacturers or distributors and provided by DESI hereunder.
- 1.7. "Warranty Period" means the 12 month period beginning on the Effective Date.

2. **Term.** This Agreement is effective as of the Effective Date and, unless earlier terminated under Section 13, expires 12 months from the Effective Date; provided that:

- 2.1. Exhibit B (Software Licenses and Maintenance Services Schedule) and the terms and conditions specified therein will survive any expiration or termination of this Agreement for the duration of the Warranty Period and all applicable Software Renewal Terms (as defined in Exhibit B).
- 2.2. Exhibit C (Hardware Warranty Services Schedule) and the terms and conditions specified therein will survive any expiration or termination of this Agreement for the duration of the Warranty Period and all applicable Hardware Renewal Terms (as defined in Exhibit C).
- 2.3. Sections 6 (Payment) (to extent of any payments still due) and 11 (Confidential Information) will survive any expiration or termination of this Agreement in accordance with their respective terms.
- 2.4. In addition to the foregoing, terms of this Agreement that do not survive expiration or termination will nonetheless be effective in determining the Parties' rights and obligations for conduct or events taking place before such expiration or termination.

### 3. DESI's Responsibilities

- 3.1. DESI shall provide the System and related services specified in Exhibit A.

3.2. DESI shall deliver the components of the System at such places and times as set forth in the project plan adopted by the parties within 30 days after the Effective Date.

3.3. DESI shall provide the licenses, maintenance and support specified in Exhibit B during the Warranty Period and all Software Renewal Terms (as defined in Exhibit B).

3.4. DESI shall provide the hardware warranty services specified in Exhibit C during the Warranty Period and all Hardware Renewal Terms (as defined in Exhibit C).

3.5. DESI shall appoint a customer support representative, who will serve as a first point of contact with Customer, be authorized to make day-to-day decisions relating to this Agreement and have access to DESI's management for other decisions.

### 4. Customer's Responsibilities

4.1. Customer shall provide DESI with physical accommodations reasonably required for DESI to perform its obligations, including premises access, electrical power, data connectivity, heat and air conditioning.

4.2. Customer shall provide information and access to personnel reasonably required for DESI to perform its obligations.

4.3. Customer shall appoint a project manager, who will serve as a first point of contact with DESI, be authorized to make day-to-day decisions relating to this Agreement and have access to Customer's authorized officials for other decisions.

4.4. Customer shall keep the ~~System segregated from other equipment, and~~ the System will be placed in secure, and temperature controlled area with restricted access.

4.5. Customer will not allow third parties who are not employees of Customer, or authorized DESI Technicians access to the System for purposes of inspection, testing, review or evaluation.

4.6. **Any violation of foregoing Sections 4.4 and 4.5, shall constitute a material breach of this Agreement, and Customer acknowledges that such violation of Sections 4.4 and 4.5 shall result in the System Warranty being null and void, and the System will be deemed unfit for the purpose of conducting an election; until such time as Customer retains the services of authorized DESI Technicians under a separate agreement, to inspect, perform logic and accuracy testing, and diagnostic testing on the System to the satisfaction of DESI, so as to insure that the System is re-certified and operating in accordance with the DESI Specifications, which will then render the System fit to be used in elections.**

5. **Title and Risk of Loss of DESI Hardware.** Title and risk of loss for each item of DESI Hardware provided by DESI under this Agreement will pass to Customer on acceptance of delivery. If Customer cannot take delivery at the agreed time or site, DESI may deliver the DESI Hardware to a warehouse within Leon County Florida selected by DESI and such delivery will be deemed made at the request and for the convenience of Customer. Upon such delivery, the DESI Hardware will be deemed in Customer's possession for purposes of passage of title

and risk of loss. However, delivery will not diminish any rights Customer has pursuant to this Agreement, including rights to repairs and replacements under applicable warranty and maintenance terms.

6. **Payment.** Customer shall pay DESI the amounts specified in Exhibit A at the times specified therein. Customer is responsible for all sales, excise, personal property or other taxes or duties on the amounts paid or products or services provided under this Agreement. If Customer is exempt from such taxes or duties, Customer shall provide DESI with a tax exemption certificate. Customer hereby grants DESI a first priority security interest in the DESI Hardware and any proceeds thereof, effective until Customer has fully paid the amounts specified for the DESI Hardware in Exhibit A. Customer shall execute and deliver UCC filings and other documents DESI reasonably requests to perfect this security interest. Customer shall insure the System for its full replacement value until the Total Initial Investment is paid in full.

## 7. Testing and Acceptance

7.1. Within ten business days after installing System components, DESI will commence unit testing under protocols designed to confirm performance in compliance with Specifications. Acceptance of units will occur on the earlier of (a) Customer's delivery of a written certificate of acceptance or (b) 30 days after the scheduled start of unit testing if testing is prevented or delayed by Customer's failure to meet obligations under this Agreement.

No later than ten business days after System installation is complete, DESI will conduct System testing under protocols designed to confirm the System's performance in compliance with all System Specifications. Acceptance of the System will occur on the earliest of (a) Customer's delivery of a written certificate of System acceptance, (b) ~~Customer's use of the System in a national election,~~ (c) 30 days after the scheduled start of System testing if impeded or prevented by Customer's failure to respond or perform its obligations and (d) 120 days after the scheduled start of System testing, unless, before then, Customer has notified DESI in writing of its intent to terminate this Agreement for cause under Section 13. Customer will not withhold acceptance due to a failure to conform to Specifications in any immaterial respect, provided DESI promptly delivers a remedial plan for such non-conformity.

## 8. Warranties

8.1. **Warranty Duration.** The following warranties will apply to all DESI Software and DESI Hardware during the Warranty Period. Thereafter, such warranties will apply to all DESI Software during all Software Renewal Terms and to all Warranted Hardware (as defined in Exhibit C) during all Hardware Renewal Terms.

8.2. **DESI Software.** DESI warrants that DESI Software will perform free of defects that would prevent the System from operating in conformity in all material respects with its Specifications, so long as such DESI Software is operated

with DESI Hardware and with Third-Party Products approved by DESI for use with the DESI Software.

8.3. **DESI Hardware.** DESI warrants that the DESI Hardware will perform free of defects that would prevent the System from operating in conformity in all material respects with its Specifications, so long as such DESI Hardware is operated with DESI Software and with Third-Party Products approved by DESI for use with the DESI Hardware.

8.4. **Third-Party Products.** The warranties in Sections 8.2 and 8.3 do not apply to any Third-Party Products, except that:

8.4.1. To the extent permitted by the manufacturers of Third-Party Products, DESI shall pass through to Customer all warranties such manufacturers make to DESI regarding the operation of such Third-Party Products; and

8.4.2. DESI warrants that all components of the DESI Software and DESI Hardware will interface and function properly with the Third-Party Products so long as such Third-Party Products operate in compliance with all applicable manufacturers' warranties.

8.5. **No Other Warranties.** DESI DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS or IMPLIED, OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

## 9. Indemnification

9.1. If notified promptly in writing of any action brought against Customer alleging that Customer's use of the DESI Software or DESI Hardware infringes a United States or international patent, copyright or trademark ("Claim"), DESI will defend the Claim at its expense and pay any costs and damages awarded against Customer; provided that DESI has sole control of and Customer's reasonable cooperation in the defense or settlement of the Claim. This indemnity will not apply to Claims arising from use of the DESI Software outside the scope of the license granted to Customer, use of the DESI Software or DESI Hardware in combination with Third-Party Products (other than those approved by DESI or set forth in the Specifications) or modification of the DESI Software or DESI Hardware not performed or provided by DESI, to the extent such use, combination or modification is the cause of such Claim.

9.2. If a Claim results in an injunction against Customer's use of any component of DESI Software or DESI Hardware, or if DESI reasonably anticipates such an injunction, DESI will procure for Customer the right to continue using the component, replace the component or modify the component to avoid the Claim while retaining substantially the same functionality.

9.3. Customer shall be responsible for any expenses or damages arising from a third-party patent, copyright or trademark infringement claim arising from DESI's compliance with Customer's specific designs or instructions. Each Party shall indemnify the other Party from third-party claims for injury, death or property

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damage based on the other Party's alleged gross negligence or willful misconduct.

**10. Limitation of Liability.** No party DESI will not be liable for damages arising out of this Agreement unless caused by DESI's that party's gross negligence or willful misconduct. The parties DESI will not be liable under this Agreement for (1) consequential, special, punitive or incidental damages or (2) compensatory damages in excess of three times the total of all amounts payable under this Agreement during the 12-month period preceding the event or events giving rise to liability.

**11 Confidential Information.** Neither Party will use or disclose the other Party's Confidential Information without the other Party's prior written consent. "Confidential Information" means, as to DESI, the DESI Software and, as to either Party, any information designated as confidential by the Party when or before it is disclosed. This paragraph does not apply to information (a) after it becomes publicly known through no fault of the receiving Party, (b) already rightfully in the receiving Party's possession when received, (c) developed by the receiving Party without the use of the other Party's Confidential Information or (d) required to be disclosed by law so long as the other Party is given immediate notice of the request or order that the information be disclosed and the fullest opportunity under law to prevent or limit the disclosure. Each Party acknowledges that its breach of this Section 11 may cause the other Party substantial and irreparable harm for which the other Party would be entitled to equitable relief in addition to any available legal remedies. Each Party hereby waives any requirement to post bond or provide other security as a condition to receiving such equitable relief.

**12 Force Majeure.** DESI's obligations hereunder will be suspended so long as compliance is impeded or prevented by causes beyond DESI's reasonable control, which may include acts of God, embargoes, acts of war (including terrorist attacks), labor disturbances and acts or regulations of governmental entities.

**13 Termination for Cause.** If either Party materially breaches this Agreement and does not cure the breach within 30 days after receiving written notice of the breach from the non-breaching Party, the non-breaching Party may terminate this Agreement as of a termination date specified in that notice or a subsequent notice delivered within such 30-day period. If the breach cannot be completely cured within the 30-day period, no default will occur if the Party receiving the notice begins curative action within the 30-day period and thereafter proceeds with diligence and in good faith to cure the breach as soon as practicable.

#### 14 Miscellaneous

**14.1. Assignment.** Neither Party may assign any rights or delegate any obligations under this Agreement without the prior written consent of the other Party; provided that DESI may subcontract Services upon 30 days' prior written notice to Customer and subject to the customers' approval, which approval shall not be unreasonably withheld. Any attempted assignment or delegation in violation of this Section 14.1 will be null and void.

**14.2 Severability.** If any term of this Agreement is held to be unenforceable, the other terms of this Agreement will be enforced to the fullest extent permitted by law.

**14.3. Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

**14.4. Governing Law.** This Agreement will be construed under the laws of the State of Florida, and the state and federal courts within Leon County, Florida have non-exclusive jurisdiction for all actions to enforce this Agreement.

**14.4 Waiver.** No waiver or failure of a party to assert any right under this Agreement on any one occasion will operate as a waiver of any other right on that occasion or any right on any other occasion.

**14.5 Notices.** All notices under this Agreement will be delivered personally, sent by confirmed facsimile transmission, sent by nationally recognized express courier or sent by certified or registered U.S. mail, return receipt requested, to the address shown on the Signature Page or such other address as may be specified by either Party to the other Party in compliance with this Section 14.6. Notices will be deemed effective on personal receipt, receipt of such electronic facsimile confirmation, two days after such delivery by courier and four days after such mailing by U.S. mail.

**14.6. Interpretation.** This Agreement, including all Exhibits, is the complete and final expression of the Parties' agreement regarding its subject matter and supersedes all prior or contemporaneous communications or agreements, written or oral, by the Parties regarding such subject matter. In the event of any conflict between these Terms and Conditions and any provisions set forth in any other part of this Agreement, these Terms and Conditions will prevail. No amendment or supplement to this Agreement is effective unless in writing and signed by both Parties' authorized representatives. The word "include" (or any of its derivatives) is deemed to be followed in all contexts by the words "without limitation." Headings are included for convenience and will be ignored in interpreting this Agreement.

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## EXHIBIT A

### PRICING AND PAYMENT SCHEDULE

Attachment # 1Page 6 of 14

#### Pricing

ITEM	QTY	DESCRIPTION	UNIT COST	EXTENSION
<b>AVTS BALLOT STATIONS and ACCESSORIES</b>				
1	138	<b>AVTSX Ballot Stations</b> <i>Each Ballot Station Includes:</i> 1 - Visually Impaired Ballot Station Kit 1 - Voter Card Encoder, 5 - Voter Access Cards, & 2 - Supervisor Cards 1 - PCMCIA Card	\$3,965.00	\$547,170.00
Sub-Total Ballot Station and Accessories Cost				\$547,170.00
<b>REQUIRED AVTSX SECURITY PACKAGE (Note 1)</b>				
2	1	Key Card Tool *	\$10,000.00	\$10,000.00
3	1	ST100 - Security Card encoder	\$150.00	\$150.00
Sub-Total Security Package				\$10,150.00
<b>AVTSX TRAINING/SUPPORT SERVICES (ALL TRAINING PERSONNEL SHALL BE APPROVED IN ADVANCE BY CUSTOMER)</b>				
4	1	GEMS/AVTSX Training 2 person 3 day course @ County Facility **	\$2,196.25	\$2,196.25
5	1	AVTS Installation and Acceptance Testing (2 people/4 days)**	\$1,260.00	\$10,080.00
6	2	AVTS L&A Support (1 tech;3 days each-Primary 2006; General 2006)**	\$1,260.00	\$7,560.00
7	2	Election Day GEMS support (1 tech;4 days each-Primary 2006; General 2006) **	\$1,260.00	\$10,080.00
8	10	Election Day Precinct Revers (1 per 12 sites-Primary 2006 and General 2006)	\$1,837.50	\$36,137.50
Sub-Total Training/Support Services				\$66,053.75
TOTAL BASIC EQUIPMENT and SERVICES				\$623,373.75
<b>SUPPLEMENTAL AVTSX HARDWARE for PRECINCT USE</b>				
9	118	Back-up Voter Card Encoders	\$395.00	\$46,610.00
10	138	Back-up PCMCIA Cards	\$155.00	\$21,390.00
Sub-Total Supplemental Precinct Hardware				\$68,000.00
TOTAL of HARDWARE, TRAINING, and SERVICES				\$691,373.75

#### OPTIONAL HARDWARE/SERVICES

11	128	<del>Optical Scan Accumulator Adaptor (OSAA) ***</del>	<del>\$75.00</del>	<del>\$9,600.00</del>
12	28	<del>Carts (Each cart holds 5 AVTSX Units and can be Stacked Two High)</del>	<del>\$400.00</del>	<del>\$11,040.00</del>
13	0	Election Day Precinct "Rover"	\$1,837.50	\$0.00
14	0	Ballot Programming & Audio File Services		See Attachment C
15	0	Additional Training Services		See Attachment A
16	0	Ballot Printing Services		See Attachment B

Note 1 Additional third-party hardware or software may be required due to current server configuration.

\* Key Card Security Tool Required by State of Florida

\*\* Plus Portal to Portal Expenses

\*\*\* Has 2002 NASED Number - Awaiting FL Certification

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**Recurring Fees  
(After Warranty Period)**

Attachment # 1

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Exhibit Two				
COSTS AFTER INITIAL LICENSE & WARRANTY EXPIRATION				
Mandatory Software License Fees				
Item	Qty	Description	Annual Fee*	Extended
1	1	Gems Software, including 1.18.19 and future releases	\$6,300.00	\$6,300.00
2	1	TSX Key Card Security Tool	\$1,800.00	\$1,800.00
3	138	AccuVote - TSX Software	\$5.00	\$690.00

Optional Extended Warranty and Maintenance Fees**				
Item	Qty	Description	Annual Fee*	Extended
6	138	AccuVote - TSX Ballot Station	\$90.00	\$12,420.00
7	155	AccuVote - OS Tabulator	\$145.00	\$22,475.00
8		<b>Annual Maintenance Fees</b>		<b>\$34,895.00</b>
9		<b>Total</b>		<b>\$38,160.00</b>

\* Subject to increase upon purchase of additional units at applicable per-unit rate.

\*\*Any equipment not currently under coverage will require an examination of such equipment by Diebold prior to reinstatement of coverage hereunder. Unless otherwise agreed, the inspection will be conducted at a Diebold-identified facility, and charged at cur

**Payment**

Description of Milestone	Date	Payment Due
Delivery of Equipment <u>Complete</u>		25%
Acceptance Testing <u>Complete</u>		15%
Training <u>Complete</u>		10%
Primary election certification <u>Complete</u>		20%
General election certification <u>Complete</u>		30%
	<b>Total:</b>	<b>100%</b>

\*Late payments accrue interest at the lesser of 1.5% per month or the highest rate permitted by law.

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**Attachment A**

**Training Products and Services**

<b>2006 Price Schedule</b>			
	<b>1st Student Per Day</b>	<b>Each Addtl. Student</b>	<b>Max Class Size</b>
<b>Classroom Training - Held at Customer Site (5 Student Minimum)</b>	<b>\$420</b>	<b>\$262.50</b>	<b>20</b>
<b>Classroom Training - Diebold Education Center (Fees assume Students are from same organization)</b>	<b>\$157.50</b>	<b>\$105</b>	<b>20</b>
<b>WebEx® Training Sessions (If Available)</b>	<b>\$157.50</b>	<b>\$131.25</b>	<b>10</b>
<b>Pollworker Training(Direct) – Held at Customer Site (\$1260 daily minimum)</b>	<b>\$25</b>	<b>\$25</b>	<b>30</b>
<b>Additional Charges May Apply:</b>			
Off Site Classroom Training Set Up Fee	\$78.75 per Hour for Actual Time On-Site		
Shipping Charges (Laptops, training materials, etc.)	Actual Reimbursable Shipping Charges		
Training Materials (Manuals, CDs, DVDs etc.)	\$35 per Student		
<b>Notes:</b>			
<ul style="list-style-type: none"><li>❖ Instructor's Travel and Living will be billed for reimbursement at actual rates based on Diebold Travel Policy</li><li>❖ Students trained at the Diebold Education Center are responsible for their own T/L. Hotel info and maps are available.</li><li>❖ Students are responsible for their own PC setup and connectivity for WebEx® sessions.</li><li>❖ Sign on directions will be provided by instructor prior to class dates.</li></ul>			
<b>Requirements for On-site Training</b>			
<b>Customer requirements:</b>			
<ul style="list-style-type: none"><li>❖ Maximum number of students per class is limited to 20 to ensure an effective training environment.</li><li>❖ Students will <i>not</i> be permitted to share computers. If training is desired for larger classes, please request a custom quote.</li><li>❖ Customer will provide access to training facility/classroom (for set-up and testing) at least one business day prior to the beginning of class.</li><li>❖ Customer will provide an LCD projector and whiteboard in the training facility/classroom.</li></ul>			
<b>Diebold Training will provide:</b>			
<ul style="list-style-type: none"><li>❖ Training materials and laptops (up to 20) and the required software for the student systems.</li></ul>			

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Attachment# 1  
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### Attachment B

#### 2006 Pricing for Ballot Printing Services

Line Item	Terms & Conditions
<b>Setup Charges</b>	
Initial Election Database Setup (standard DESI layout)*	\$250
Supplemental Ballot Order (standard DESI layout)*	\$150
<b>General Charges</b>	
<b>Initial Order</b>	
Printing 2 sides on 11" & 14" Ballots	\$250 flat fee for first 1200 then \$0.39 each
Printing 2 sides on 18" Ballots	\$250 flat fee for first 1200 then \$0.425 each
<b>Supplemental Ballot Order</b>	
Printing 2 sides on 11" & 14" Ballots	\$50 flat fee for first 100, then \$0.39 each
Printing 2 sides on 18" Ballots	\$50 flat fee for first 100, then \$0.425 each
Perforation	incl
Top or Bottom Stub	incl
Extra Boxes	\$1.15
Freight	Actual Cost
<b>Test Ballots</b>	
Prefilling of ovals	incl
Variable Data Printing	incl
Test Ballots Printing on 11" & 14" Ballots	\$0.39 per ballot
Test Ballots Printing on 18" Ballots	\$0.425 per ballot
<b>Polling Place Ballots</b>	
Variable Data Printing	incl
Staple Or Shrink Wrap	incl
Package Ballots in County Specified Order	incl
Additional Party Ballots over Three (DEM, REP, NP)	\$0.02 per ballot
Labeled Boxes	incl
<b>Absentee Ballots</b>	
Scoring	incl
Folding	incl
Variable Data Printing	incl
Package Ballots in County Specified Order	incl
Additional Party Ballots over Three (DEM, REP, NP)	\$0.02 per ballot
Split Packaging to Multi-Delivery Points	N/A
<b>Mail Ballots</b>	
Scoring	incl
Folding	incl
Variable Data Printing	incl
Package Ballots in County Specified Order	incl
Additional Party Ballots over Three (DEM, REP, NP)	\$0.02 per ballot
Split Packaging to Multi-Delivery Points	N/A

\*Special layouts quoted on a per job basis

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**Attachment C**

Attachment# 1  
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**Service Bureau Programming Fees 2006**

**PROGRAMMING CHARGES**

<b>Minimum Charge for Database Creation</b>	
<i>Programming charges totaling less than \$750.00</i>	\$ 750.00
<i>Programming charges totaling between 751.00 and 999.00</i>	\$ 1,000.00
Precinct	\$ 20.00 each
Precinct Portion (Split)	\$ 20.00 each
Race / Office	\$ 20.00 each
Candidate	\$ 10.00 each
Ballot Style	\$ 20.00 each
Memory Card - Accuvote O/S	\$ 20.00 each
PC Card - Accuvote T/S	\$ 15.00 each
Postscript File Creation	\$ 100.00 (1-50 ballot styles)
<i>Not applicable if artwork is sent to Diebold Printer</i>	\$ 200.00 (51-100 ballot styles)
	\$ 300.00 (101+ ballot styles)
<b>Additional Charges not included in Minimum Calculation</b>	
GEMS / VTS database diskette/CD	\$ 350.00
<i>Not applicable if licensed GEMS/VTS customers</i>	
Recount Charge	\$ 500.00
Change Orders	\$ 250.00 per change
<i>This is applicable if change is needed after jurisdiction has already accepted and signed off on the "Election Content Authorization" form</i>	
Memory Card Replacement	\$ 250.00
Memory Card Battery Replacement	\$ 16.00
Memory Card Rental	\$ 50.00
First additional language added with English	\$ 250.00
Each additional language added thereafter	\$ 500.00
Screen Shots	\$ 0.10 per screen shot

Shipping charges will be applied to the customer invoice for shipments of database and memory cards

The programming fees listed above DO NOT include charges that will be applied if translation and preparation of a language(s), recording and preparation of an Audio Database is needed. Please refer to Audio Charges listed below.

**CUSTOMER DATABASE REVIEW CHARGES**

The jurisdiction will be supplied with a form to describe requested review functions and charge authorization.	
Functions can include one or more of the following:	\$ 175.00 per hour
Software Logic	
Jurisdiction election definition accuracy	
Ballot testing	

*Minimum charge - 1 hour*

**AUDIO CHARGES**

Minimum charge for Audio Recording Database	\$ 300.00 per database
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**CALCULATED CHARGES TO INCLUDE:**

<b>Voice Talent</b>	
English Audio Recording	\$ 210.00 per hour
All other languages	\$ 300.00 per hour
<b>Studio Time</b>	
All languages	\$ 125.00 per hour
<b>Audio Editing</b>	
All languages	\$ 175.00 per hour
<b>File Conversion</b>	
All languages	\$ 175.00 per hour

Translation of language(s) \*\*  
\*\* - quotes for translation services are available upon request

All translation and/or audio must be tested by the requesting jurisdiction.

*Rush Orders / Weekend Deadlines - Extra Charges May Apply*

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**EXHIBIT B**

**SOFTWARE LICENSE AND MAINTENANCE SERVICES SCHEDULE**

**1. Exhibit B Term.** This Exhibit B is effective as of the Effective Date and, if not extended as provided herein, expires on the last day of the Warranty Period. Customer may thereafter extend the effectiveness of this Exhibit B for up to 20 successive one-year renewal periods (each, a "Software Renewal Term") by paying, for each Software Renewal Term, the Annual Software License and Maintenance Fee set forth in Exhibit A of the Agreement at least 30 days before such Software Renewal Term begins. The period during which this Exhibit B is in effect is referred to herein as the "Exhibit B Term." On expiration of the Exhibit B Term (a) the licenses granted in this Exhibit B will automatically terminate, (b) Customer shall cease any further use of the DESI Software and (c) DESI may cease performing the maintenance services set forth in this Exhibit B.

**2. Payment.** The Total Initial Investment specified in Exhibit A of the Agreement includes payment in full, for the Warranty Period, for the licenses, maintenance and support described in this Exhibit B. Each Annual Software License and Maintenance Fee constitutes payment in full, for the duration of the applicable Software Renewal Term, for the licenses, maintenance and support described in this Exhibit B.

**3. License to DESI Software.** Subject to the terms of this Exhibit B and the Agreement, DESI grants Customer a non-exclusive license, without the right to transfer or sublicense, to use, during the Exhibit B Term, for the purpose of preparing for and conducting federal, state or local elections, run-offs, referenda and other similar voting events that take place within Leon County, Florida ~~{IDENTIFY CUSTOMER'S JURISDICTION}~~, the numbers of copies specified in Exhibit A of the DESI Software applications identified therein. This license may be exercised by Customer officials, employees and volunteers authorized by Customer to conduct the above-described elections.

**4. Third-Party Products.** Subject to the terms of this Exhibit B and the Agreement, DESI agrees to sublicense any software that constitutes or is contained in Third-Party Products, in object code form only, to Customer for use during the Exhibit B Term as part of the System for the purposes described in Section 3 of this Exhibit B. This sublicense is conditioned on Customer's continued compliance with the terms and conditions of the end-user licenses contained on or in the media on which such software is provided.

**5. No Other Licenses.** Other than as expressly set forth in this Exhibit B, (a) DESI grants no licenses, expressly or by implication, and (b) DESI's entering into and performing the Agreement (including this Exhibit B) will not be deemed to license or assign any intellectual property rights of DESI to Customer or any third party. Without limiting the foregoing sentence, Customer agrees to use each copy of the AccuVote-TSX firmware, or AccuVote-OS firmware, only on the AccuVote-TSX unit, or AccuVote-OS unit, with which the copy is supplied, agrees not to use any DESI Software as a service bureau for elections outside State of Florida ~~{IDENTIFY CUSTOMER'S JURISDICTION}~~ and agrees not to

reverse engineer or otherwise attempt to derive the source code of any DESI Software.

**6. DESI Software Maintenance**

6.1. During the Exhibit B Term, DESI shall maintain the DESI Software so that it operates in conformity at all times with the warranties set forth in the Agreement. DESI shall correct any reproducible error affecting the DESI Software. Suspected error conditions will be investigated and corrected by DESI personnel at the DESI office to the extent possible. Repair or replacement under this Exhibit B will be the exclusive remedy of Customer for any defects in the operation of the DESI Software.

6.2. If a problem cannot be resolved using remote diagnostics, upon Customer's prior authorization, DESI will send a specialist to the Customer's premises under the following terms:

6.2.1. If the problem lies solely with DESI Software, DESI is responsible for all expenses associated with the resolution of the problem, provided that Customer has incorporated all error corrections or changes to the DESI Software within ten days after receiving them from DESI.

6.2.2. If the problem is due to acts or omissions by Customer or a third party, including by the failure to incorporate all error corrections or changes in a timely manner, Customer is responsible for all fees and expenses at DESI's then-current consulting service rate. Such problems include those that arise from the failure of Third-Party Products, installation of the DESI Software on hardware that was not approved by DESI, or improper use of the DESI Software or the hardware upon which it is installed.

6.3. As is reasonably necessary for DESI to provide maintenance and support, Customer shall provide access to its personnel and premises, be responsible for maintaining all necessary computer hardware (other than Warranted Hardware), communications equipment, telephone lines, cabling and modems, and make available paper, disk packs and other similar supplies.

**7. Enhancements and Upgrades.** During the Exhibit B Term, DESI shall provide Enhancements and Upgrades (each as defined below) to Customer under the following terms and conditions.

7.1. DESI may provide Customer with unsolicited error corrections or changes to the DESI Software that DESI determines from time to time are necessary for proper operation of the System ("Enhancements").

7.2. DESI may release DESI Software improvements that add to or change the functionality characterizing the DESI Software as of the Effective Date ("Upgrades"). Upgrades do not include later released versions of the DESI Software with a higher version number.

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~~Surviving~~ ~~Expiration~~ ~~or~~

~~Termination of Term.~~

Effective upon expiration or termination of the

Term of the Agreement, Sections 1 and 8 through 14 of the Agreement

will be incorporated in this Exhibit B as if fully set forth herein, and will

survive such expiration or termination (along with those specified in

Section 2.3 of the Agreement) for the remainder of the Exhibit B Term.

7.3. Customer shall incorporate each Enhancement and Upgrade within ten days after receipt from DESI, unless DESI consents in writing to a delay in such incorporation. Each Enhancement and Upgrade will be, from and after delivery to Customer, licensed to Customer under this Exhibit B and treated for all purposes as part of the DESI Software.

7.4. Notwithstanding any term of this Exhibit B to the contrary, DESI shall not provide, and shall not be obligated to provide, under this Exhibit B any Update, Enhancement or other software or firmware that has not been fully certified under any and all applicable provisions of the election laws and regulations of State of Florida ~~(IDENTIFY CUSTOMER'S JURISDICTION)~~.

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**DRAFT**

**EXHIBIT C**

**HARDWARE WARRANTY SERVICES SCHEDULE**

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1. **Exhibit C Term.** This Exhibit C is effective as of the Effective Date and, if not extended as provided herein, expires on the last day of the Warranty Period. Customer may thereafter extend the effectiveness of this Exhibit C for up to 20 successive one-year renewal periods (each, a "Hardware Renewal Term") by paying, for each Hardware Renewal Term, the Annual Extended Hardware Warranty Fee set forth in Exhibit A of the Agreement at least 30 days before such Hardware Renewal Term begins. The period during which this Exhibit C is in effect is referred to herein as the "Exhibit C Term."

2. **Payment.** The Total Initial Investment specified in Exhibit A of the Agreement includes payment in full, for the Warranty Period, for the hardware warranty services described in this Exhibit C. Each Annual Extended Hardware Warranty Fee constitutes payment in full for the hardware warranty services described in this Exhibit C for the duration of the applicable Hardware Renewal Term.

3. **Warranted Hardware**

3.1. During the Exhibit C Term, DESI shall maintain the items of DESI Hardware identified in Exhibit A and any other items of DESI Hardware for which Customer purchases extended warranty services under this Exhibit C (collectively, "Warranted Hardware"), so that they operate in conformity at all times with the warranties set forth in the Agreement. If any item of the Warranted Hardware fails during the Exhibit C Term to operate in conformity with the warranties set forth in the Agreement, DESI shall fully repair or, at DESI's option, replace the Warranted Hardware. The following conditions apply:

3.1.1. Customer shall bear the shipping costs to return the malfunctioning item of Warranted Hardware to DESI and DESI shall bear the costs for ground-shipping the repaired or replaced item of Warranted Hardware to Customer. Shipping costs are based on ground service rates. If faster shipping service is required, the shipping cost shall be at the Customer's expense.

3.1.2. Customer may request on-site support services. If DESI agrees to provide on-site support services, such services will be provided on a time and material basis.

3.1.3. In special or unusual circumstances, Customer may request to borrow a hardware unit that can serve as a temporary replacement for the malfunctioning item of Warranted Hardware ("Loaner"). DESI may, at its discretion, provide a Loaner for Customer to use for election activity until the covered item is repaired or replaced, at no charge to Customer. ~~DESI and Customer shall agree in advance on the fee for the use of the Loaner.~~

3.2. For the avoidance of doubt, the following services are among those not covered by the payments identified in Section 2 above, and are available at DESI's then current time and material rates.

3.2.1. The replacement of consumable items such as batteries, paper rolls, ribbons, clock chips, smart cards, floppy disks, and disks on chips.

3.2.2. The repair or replacement of Warranted Hardware damaged by accident, abuse, neglect, improper usage or as a result of service modification by anyone other than DESI and its authorized service representatives.

3.2.3. The repair, refitting or replacement of any DESI Hardware to comply with the changes in any applicable laws or regulations becoming effective after acceptance of such Hardware.

4. **Gaps in Warranty Coverage.** Customer may purchase extended hardware warranty services under this Exhibit C for items of DESI Hardware for which coverage has lapsed. In such case, in addition to payment of the applicable Annual Extended Hardware Warranty Fee, Customer will pay at DESI's then current time and material rates for inspections and repairs required to bring the items of DESI Hardware up to warranty-level standards.

5. **Incorporation of Provisions Surviving Expiration or Termination of Term.** Effective upon expiration or termination of the Term of the Agreement, Sections 1 and 8 through 14 of the Agreement will be incorporated in this Exhibit C as if fully set forth herein, and will survive such expiration or termination (along with those specified in Section 2.3 of the Agreement) for the remainder of the Exhibit C Term.

6. **Enhancements and Upgrades.** During the Exhibit C Term, if DESI develops any upgraded, enhanced, or improved hardware that is designed to replace or supplant, or does replace or supplant, the hardware purchased through this Agreement, Customer shall have the right to purchase the improved equipment and shall be entitled to return for Credit any hardware replaced by such purchase. The Credit shall be computed as a percentage of the initial purchase price of the replaced hardware, subject to a declining balance schedule as follows:

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Replacement with: Credit (% of Purchase Price)

<u>During the Initial Warranty Period</u>	<u>100%</u>
<u>First Renewal Period</u>	<u>75%</u>
<u>Second Renewal Period</u>	<u>50%</u>
<u>Third Renewal Period</u>	<u>25%</u>
<u>Anytime Thereafter</u>	<u>10%</u>

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