

MASTER SERVICES AGREEMENT

CONTRACT No. CVWD.2017.1

This Master Services Agreement (hereinafter “the Agreement”) is entered into and effective as of January 20, 2017 by and between by and between the following Parties:

Aspect Engineering Group (hereinafter “Contractor”) with a principal business address of 1026 Calloway Drive Bakersfield, CA 93312

and

Carpinteria Valley Water District (hereinafter “Company”) with a principal business address of 1301 Santa Ynez Ave | Carpinteria, CA 93013

collectively referred to as the “Parties”.

WHEREAS, the Company desires the Contractor to perform certain services from time to time relating to, among other things, industrial control system integration, programming or consulting services, all upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the Parties intending to be legally bound, hereby agree as follows:

I. SERVICES

1.1 Services.

The Contractor and the Company will develop and enter into one or more Statements of Work incorporating a description of the specific services requested by the Company (each, and as modified by the Parties from time to time, a “SOW”). Each SOW will set forth to the extent applicable, among other things, project scope, schedule, various project activities and tasks to be performed by the Parties, deliverables, acceptance procedures and criteria, and roles and responsibilities of the Parties. Each SOW shall specifically identify this Agreement and indicate that it is subject to the terms hereof. To the extent there are any conflicts or inconsistencies between this Agreement and any SOW, the provisions of this Agreement shall govern and control. The Contractor will provide to the Company those services described as its obligation in each SOW (collectively, the “Services”). Each SOW shall be annexed to this Agreement and for all purposes considered a valid addendum to this Agreement.

1.2 Deliverables; Acceptance of Deliverables.

Each SOW will describe, if applicable, the deliverables that the Contractor is obligated to furnish to the Company hereunder (collectively, the “Contractor Deliverables”) and the acceptance criteria for each of the Contractor Deliverables (the “Acceptance Criteria”). the Company shall review,

evaluate and/or test, as the case may be, each of the Contractor Deliverables within the applicable and reasonable time period set forth in a SOW (with respect to each Contractor Deliverable, the “Acceptance Period”) to determine whether or not such Contractor Deliverable satisfies the applicable Acceptance Criteria in all material respects. If any Contractor Deliverable fails to satisfy its Acceptance Criteria in any material respect, then the Company will notify the Contractor thereof in writing specifying the nonconformity (a “Rejection Notice”). Thereafter, the Contractor shall use its diligent commercially reasonable efforts to modify a defective Contractor Deliverable to so conform and the Deliverable will be resubmitted for acceptance by the Company, provided that upon resubmission, the Company will limit its review, evaluation and/or test to determining whether the identified defect(s) have been corrected and to the effects which those modifications have on other portions of the Contractor Deliverable(s). If the Contractor is unable to remedy each non-conforming portion of any Contractor Deliverable after a reasonable period of time for correction, then the Company’s remedies and the Contractor’s entire liability to the Company as a result thereof will be subject to the limitations set forth in Article 8 hereof. If the Company does not furnish a Rejection Notice to the Contractor prior to the end of the Acceptance Period for any Contractor Deliverable, then the Company will be deemed to have accepted such Contractor Deliverable. If requested by the Contractor, the Company will promptly sign and deliver to the Contractor a mutually acceptable certificate evidencing such acceptance.

II. PAYMENT

2.1 Project Fees and Reimbursable Items.

The Company shall pay to the Contractor the fees and other compensation set forth in each SOW. The Company will also reimburse the Contractor for all reasonable out-of-pocket travel, living and other ancillary expenses paid or incurred by the Contractor while away from the place(s) of business of the Contractor in connection with the Services and any other reimbursable items set forth in each SOW. The Contractor will have no obligation to perform any Services when any amount required to be paid by the Company remains due and unpaid beyond the date such amount is due. Any suspension of Services by the Contractor as a result of the Company’s failure to make payment as required will extend the due dates of the Contractor Deliverables and other Services to the extent impacted by such suspension or delay.

2.2 Invoices; Payments.

The Contractor will invoice the Company for all fees, charges and reimbursable items payable to the Contractor on a semi-monthly basis as such payments are due. The Contractor will provide original receipts expenses the Contractor is seeking reimbursement for. The Company will pay the invoiced amount in full within 30 business days of receipt of invoice, without deduction or setoff. The Company will pay interest, at a rate equal to the lesser of 2.5% per month (or part thereof) or the maximum legal rate permitted, on the amount shown on any invoice that is paid later than thirty (30) days after the date of the invoice. If, after seven (7) days’ notice by the Contractor, the Company does not make payment for the Services in conformity with this Contract (or, with or without such notice if the Company has repeatedly failed to make payment in conformity with this Contract), the Contractor may suspend the Services until it receives all

payments then due, and the Contract Sum shall be increased by the Contractor reasonable demobilization and remobilization costs.

2.3 Taxes.

The Company agrees to pay amounts equal to any Federal, State or Local sales, use, excise, privilege or other taxes or assessments, however designated or levied, relating to any amounts payable by the Company to the Contractor hereunder, this Agreement or any Services, exclusive of taxes based on the Contractor's net income or net worth. the Contractor will invoice the Company for any taxes payable by the Company that are required to be collected by the Contractor pursuant to any applicable law, rule, regulation or other requirement of law. The Contractor is an independent contractor, therefore, the Company will not withhold or pay those amounts an employer is typically required to withhold or pay in connection with wages paid to an employee, such as, income tax, social security, Medicare, or disability.

III. CERTAIN OBLIGATIONS OF THE PARTIES

3.1 Obligations of the Contractor.

Except for any and all software, information, data and other materials provided by the Company or its agents to the Contractor, the Contractor warrants and represents that it shall not knowingly, or with negligence, include or authorize any Trojan Horse, back door, time bomb, drop dead device, worm, virus, or other malicious code of any kind that may disable, erase, display any unauthorized message or otherwise impair the Company's software, with disregard of the possibility of or the intent to cause harm. The Contractor will cause its personnel to comply with all of the Company's lawful standards and procedures when working on-site at the Company's facilities, including standards and procedures relating to security, provided that the Contractor is given advanced notice of such standards and procedures.

3.2 Insurance Requirements

the Contractor shall, at its sole cost and expense, at all times maintain Commercial General Liability Insurance which shall include products and completed operations for which limits shall not be less than \$1,000,000 per occurrence and \$2,000,000 aggregate per year.

The Contractor shall, at its sole cost & expense, at all times maintain Workers Compensation Insurance at the state statutory limits.

Said insurance policies shall name the Company as Additional Insured and include a Waiver of Subrogation. The Contractor insurance agent/broker shall provide the certificates of such insurance directly to Aspect Engineering Group. Said insurance policies shall also provide that they cannot be cancelled without at least thirty (30) days prior written notice to the Company.

IV. OWNERSHIP

4.1 Work Product and the Company Intellectual Property.

The term “Work Product” means any inventions, software, documentation, reports, designs, specifications, processes, works of authorship, ideas, data or modifications and enhancements to software or documentation that are made, conceived, developed or reduced to practice, alone or jointly with others, by the Contractor personnel for the Company in the course of performing Services, whether or not any such items are eligible for patent, copyright, trade secret or other legal protection, provided that Work Product shall not include the Contractor Intellectual Property (as defined below). All Work Product, including all patent, copyright, trade secret, ideas, and other intellectual property rights related thereto, will be the sole and exclusive property of the Company or its designee upon the Company’s payment in full of amounts payable hereunder. The Parties intend that all Work Product shall be considered to be work-for-hire to the extent it qualifies as such under applicable law. To the extent that any Work Product is not, automatically upon creation thereof, owned by the Company as a work-for-hire or otherwise, the Contractor is hereby assigned all of its right, title and interest in, to and under all Work Product, subject to payment of all amounts payable by the Company. At the Company’s request and expense, during and after the term of this Agreement, the Contractor will execute documents and give testimony and take further acts reasonably requested by the Company to assist the Company or its designee with any efforts of the Company or its designee to obtain and perfect patent, copyright, trade secret and other legal protection for the Work Product. The Company shall pay the Contractor for any time required for such assistance, excluding for the execution of documents, at the Contractor’s hourly rate for the required personnel. The Company will have full control over all applications for patent application, trademark application, copyright registration or other legal protection of the Work Product. If the Contractor shall fail to provide to the Company any such instruments, the Company is hereby granted a power coupled with an interest, with rights of substitution and delegation, to sign such instruments and to take such other steps and proceedings as may be necessary in the name and on behalf of the Contractor as its attorney-in-fact if the Contractor has not complied with the Company’s request within a reasonable period of time, not to exceed fourteen (14) days. The Contractor relinquishes all rights (including so called moral rights), claims and interests in all such Work Product to the Company as the rights-holder of the Work Product, including to the exclusive rights to edit, display, perform, publish, create derivative works, create collective works, reproduce, distribute, sell, license, sublicense, or otherwise transfer the Work Product, alone or together with other inventions or works of authorship, by any means now know or which come into existence in the future. Nothing contained in this Agreement or otherwise shall be construed to grant to the Contractor any right, title, license or other interest in, to or under any of the Company’s software, specifications, drawings, sketches, models, samples, records, documentation, works of authorship or creative works (whether by estoppel, implication or otherwise), except the right to modify and otherwise use such items only in conjunction with the performance of Services. The provisions of this Article 4.1 shall be subject to the provisions of Articles 4.2 and 4.3 below.

4.2 Residual Rights.

Notwithstanding the above, the Company agrees that the Contractor, its employees and agents shall be free to use and employ their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques or skills gained or learned during the course of any Services performed hereunder, subject to its obligations respecting the Company’s Trade Secrets and Confidential Information pursuant to Article 5. The Company understands and agrees that the Contractor may perform similar services for third Parties

using the same personnel that the Contractor may utilize for rendering the Services for the Company hereunder, subject to the Contractor obligations respecting the Company's Confidential Information pursuant to Article 5.

4.3 Company Intellectual Property.

The Company (or its licensor) will at all times retain all rights, ownership, and interest in any copyright, trademark, or other intellectual property proprietary to them including without limitation any software, methodologies, tools, specifications, techniques, documentation or data which is utilized by the Contractor in the performance of Services and has been originated or developed by the Company, its affiliates or by third Parties outside of the scope of the Services, or which has been purchased by or licensed to the Company, together with any and all additions, enhancements, improvements or other modifications thereto whether or not made during the performance of the Services (collectively, "the Company Intellectual Property"). Nothing contained in this Agreement or otherwise shall be construed to grant to the Contractor any right, title, license or other interest in, to or under any the Company Intellectual Property (whether by estoppel, implication or otherwise).

4.4 Contractor Intellectual Property.

The ideas and thought process as well as the method of solving the Company's problems must continue to be owned by the Contractor. If ownership of intellectual property is sold to the Company, the Contractor cannot sell it to subsequent customers and is effectively out of business. The Contractor (or its licensor) will at all times retain all rights, ownership, and interest in any copyright, trademark, or other intellectual property proprietary to them including without limitation any software, methodologies, tools, specifications, techniques, documentation or data which is utilized by the Contractor in the performance of Services and has been originated or developed by the Contractor, its affiliates or by third Parties outside of the scope of the Services, or which has been purchased by or licensed to the Contractor, together with any and all additions, enhancements, improvements or other modifications thereto whether or not made during the performance of the Services (collectively, "the Contractor Intellectual Property"). Nothing contained in this Agreement or otherwise shall be construed to grant to the Company any right, title, license or other interest in, to or under any the Contractor Intellectual Property (whether by estoppel, implication or otherwise).

V. CONFIDENTIAL INFORMATION

5.1 Confidentiality Obligations.

The term "Confidential Information" shall mean any and all information or proprietary materials (in every form and media) not generally known in the relevant trade or industry and which has been or is hereafter disclosed or made available by either party (the "disclosing party") to the other (the "receiving party") in connection with the efforts contemplated hereunder, including (i) all trade secrets, (ii) existing or contemplated products, services, designs, technology, processes, technical data, engineering, techniques, methodologies and concepts and any information related thereto, (iii) information relating to business plans, sales or marketing methods or merchandising techniques, plans or information, and actual or potential customer lists or requirements. (iv)

financial information or materials, (v) cost data, (vi) user lists and information, (vii) actual or potential vendor lists and information, (viii) procurement requirements, (ix) purchasing information, (x) manufacturing or development information, (xi) pricing policies, (xii) information about employees, contractors, independent contractors, interns, officers, directors, shareholders, investors, lenders, accountants, attorneys, and any other agents of either party, (xiii) information about actual, under development, or what might reasonably be anticipated to be or become business and contractual relationships, (xiv) actual or potential lender, investor or “partner” lists and information, and (xv) other proprietary business information of either Party. “Information” as it relates to people or entities includes all contact information, including name, title, position, address, phone numbers, and email addresses. Further, “Confidential Information” includes any and all technical and non-technical information or material in which either party has rights, opportunities, or obligations, whether or not owned or developed by such party (or people or entities such party may have disclosed to or received from pursuant to non-disclosure agreements).

“Trade Secrets” means information, including a formula, pattern, compilation, program device, method, technique, or process, that: (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Each party acknowledges that disclosure or use of a trade secret without express or implied consent violates the Uniform Trade Secrets Act. Each party acknowledges that the other party is not seeking to obtain trade secrets or confidential information of others that such party might possess and agrees not to improperly disclose trade secrets or confidential information of others to the other party.

the Company and the Contractor shall each (i) hold the Confidential Information of the other in trust and confidence and avoid the disclosure or release thereof to any other person or entity by using the same degree of care as it uses to avoid unauthorized use, disclosure, or dissemination of its own Confidential Information of a similar nature, but not less than reasonable care, and (ii) not use the Confidential Information of the other party for any purpose whatsoever except as expressly contemplated under this Agreement or any SOW. Each party shall disclose the Confidential Information of the other only to those of its employees, independent contractors, permitted subcontractors (including their employees and independent contractors) having a need to know such Confidential Information, provided that such persons and entities have signed a non-disclosure agreement containing provisions no less restrictive than those contained in this Article 5.

The obligations of either party under this Article 5.1 will not apply to information or materials that the receiving party can demonstrate (i) was in its possession at the time of disclosure and without restriction as to confidentiality, (ii) at the time of disclosure is generally available to the public or after disclosure becomes generally available to the public through no breach of agreement or other wrongful act by the receiving party, (iii) has been received from a third party without restriction on disclosure and without breach of agreement or other wrongful act by the receiving party, (iv) is independently developed by the receiving party without reference to the Confidential Information of the other party, or (v) is required to be disclosed by law or order of a court of competent

jurisdiction or regulatory authority, provided that the receiving party shall furnish prompt written notice of such required disclosure and reasonably cooperate with the disclosing party, at the disclosing party's cost and expense, in any effort made by the disclosing party to seek a protective order or other appropriate protection of its Confidential Information and any disclosure under this clause (v) is limited to the extent of the legal requirement.

The Company shall have the right to duplicate, use, or disclose the information contained this Agreement or any SOW to the extent necessary to perform its duties in the interest of formulating a business relationship with the Contractor. However, it is also understood that the information contained this Agreement or any SOW may not be disclosed to third parties or reproduced or used, in whole or in part for the basis to obtain competitive quotes from other vendors.

VI. INDEMNIFICATION

6.1 Intellectual Property Rights Indemnity.

The Contractor and the Company (in such case, the "Indemnifying Party") each agree to indemnify, defend and hold harmless the other (in such case, the "Indemnified Party") from and against any costs and damages awarded against the Indemnified Party by a court pursuant to a final judgment as a result of, and defend the Indemnified Party against, any claim of infringement of any patent, copyright, trademark, or misappropriation of any trade secret related to a Contractor Deliverable (in the case of indemnification by the Contractor) or the Contractor's possession, use or modification of any software, documentation, data or other property provided by the Company (in the case of indemnification by the Company).

6.2 Infringement and Misappropriation Remedies.

If an infringement or misappropriation claim as described in Article 6.1 above arises, or if the Contractor reasonably believes that a claim is likely to be made, the Contractor may, at its option, if such may be done without causing delay disruption: (i) modify the applicable Contractor Deliverables provided under the Services so that they become non-infringing but functionally equivalent; or (ii) replace the applicable Contractor Deliverables with material that is non-infringing but functionally equivalent; or (iii) obtain for the Company the right to use such Contractor Deliverables upon commercially reasonable terms to both Parties but at no cost to the Company (which might have the effect of causing such Deliverables to not be considered a work-for-hire, or allow for the assignment of any ownership rights); or (iv) remove the infringing or violative Contractor Deliverables and refund to the Company the fees received for such Contractor Deliverables that are the subject of such a claim based on a five (5) year straight line depreciation. the Contractor shall have no obligation under this Article 6.2 or other liability for any infringement or misappropriation claim resulting or alleged to result from: (1) use of the Contractor Deliverables or any part thereof in combination with any non-the Contractor approved equipment, software or data, or in any manner for which the same was not designed, or if same has been modified or altered by a person or entity other than the Contractor; (2) any aspect of the Company's software, documentation or data which existed prior to the Contractor's performance of Services; (3) any claim arising from any instruction, information, design or other materials furnished by the Company or any third party provided by the Company to the Contractor hereunder

or (4) the Company's continuing the allegedly infringing activity after being notified thereof or after being informed and provided with modifications that would have avoided the alleged infringement. This Article 6 sets forth the exclusive remedy and entire liability and obligation of each party with respect to intellectual property infringement or misappropriation claims, including patent, trademark or copyright infringement claims and trade secret misappropriation.

6.3 Personal Injury and Property Damage Indemnity.

Each Indemnifying Party agrees to indemnify and hold harmless the other from and against damages, costs and expenses (including reasonable attorney's fees) awarded against the Indemnified Party by a court pursuant to a final judgment as a result of, and defend the Indemnified Party against, any claim or action made or commenced by a third party or its legal representatives or successors for claims of death or bodily injury to such third party or physical damage to real or tangible personal property (excluding software, data and documentation) of such third party, to the extent caused directly and proximately by the negligence or willful misconduct of the Indemnifying Party. The provisions of this Article 6.3 shall not apply to claims, damages, costs or expenses arising out of or otherwise relating to the functioning, operations, quality, or use of any Services or Contractor Deliverables, all of which shall be treated as warranty claims under Article 7 of the Agreement.

6.4 Indemnification Procedures.

The obligations to indemnify, defend and hold harmless set forth above in this Article 6 will not apply to the extent the Indemnified Party was responsible for giving rise to the matter upon which the claim for indemnification is based and will not apply unless the Indemnified Party (i) promptly notifies the Indemnifying Party of any matters in respect of which the indemnity may apply and of which the Indemnified Party has knowledge; (ii) gives the Indemnifying Party full opportunity to control the response thereto and the defense thereof, including any agreement relating to the settlement thereof, provided that the Indemnifying Party shall zealously defend against any such claim or action and shall not allow a consent or stipulated judgment to be entered against the Indemnified Party or settle any such claim or action without the prior written consent of the Indemnified Party (which shall not be unreasonably withheld or delayed); and (iii) reasonably cooperates with the Indemnifying Party, at the Indemnifying Party's cost and expense in the defense or settlement thereof. The Indemnified Party may participate, at its own expense, in such defense and in any settlement discussions directly or through counsel of its choice on a monitoring, non-controlling basis.

VII. WARRANTY

7.1 Limited Warranty.

With respect to any Contractor Deliverable or other Services, excluding any the Company provided or the Company directed third party materials, the Contractor warrants the following for a period of thirty (30) days following final acceptance by the Company of the particular Contractor Deliverable or the performance of such other Services (the “Warranty Period”): For purposes of this warranty, final acceptance will be deemed to be completed when either the Contractor Deliverable is partially or completely put into use, or when Contractor has met the Acceptance Criteria, whichever is sooner.

- A. the applicable Services rendered hereunder will be performed by qualified personnel;
- B. the applicable Services performed will substantially conform to any applicable requirements set forth in the SOW;
- C. the applicable Contractor Deliverable or Services will materially conform to the specifications, if any, and/or Acceptance Criteria, if any, for those specific corresponding Contractor Deliverables or Services.

In the event that any Contractor Deliverable or Service fails to conform to the foregoing warranties in any material respect, the Contractor shall have the right and obligation to cure or correct such failure as soon as commercially reasonably practical at the Contractor’s expense. If the Contractor is unable to cure or correct such failure within a commercially reasonable period of time, then the Company may pursue its remedy at law to recover direct damages resulting from the breach of the limited warranties, subject to the limitations set forth in Article 8 hereof. These remedies are the exclusive remedies and the Contractor’s only obligation for breach of the warranties contained in this Article 7.1. The Contractor does not warrant that any Contractor Deliverable will operate uninterrupted or error-free, provided that the Contractor shall remain obligated pursuant to this Article 7. The foregoing warranties are expressly conditioned upon (i) the Company providing the Contractor with prompt written notice of any claim there under prior to the expiration thereof, which notice must identify with particularity the non-conformity; (ii) the Company’s cooperation with the Contractor in all reasonable respects relating thereto, including assisting the Contractor to locate and reproduce the non-conformity; and (iii) with respect to any Contractor Deliverable, the absence of any material alteration or other modification of such Contractor Deliverable by any person or entity other than the Contractor. The foregoing warranties will not apply if the alleged breach of warranty is due to third party hardware, software and any other services or goods supplied by non-the Contractor third Parties (including the Company) not conforming to their respective technical, functional and performance specifications and criteria, and the Contractor shall have no liability or obligation as a result thereof.

7.2 Disclaimer.

Except as expressly provided in Article 7.1, the Contractor does not make any representation or warranty of any kind, whether such warranty be expressed or implied, including any warranty of merchantability or fitness for a particular purpose or any warranty form course of dealing or usage of trade.

7.3 Responsibility of the Company.

In the event that the Company asserts any claim for warranty services hereunder and such claim relates to any matter that is determined not to be the Contractor's responsibility hereunder (including any problem with the Company's computer hardware or the Software that was not caused by any Services performed by the Contractor), the Company will be responsible to pay the Contractor for all evaluation, correction or other services performed by the Contractor relating to such claim on a time and materials basis at the Contractor's then lowest billing rates.

VIII. LIMITATION OF LIABILITY AND REMEDIES

8.1 [Reserved].

8.2 Total Liability.

Except for any liability of the Contractor under Articles 6 or 10.4 hereof, or a breach of any warranty or representation or gross negligence or willful misconduct, in no event shall the liability of either party arising out of or in connection with this Agreement or the Services exceed, in the aggregate, the total fees paid by the Company to the Contractor for the particular Services or Contractor Deliverable with respect to which such liability relates (or in the case of any liability not related to a particular portion of the Services, the total fees paid by the Company to the Contractor under the applicable SOW), whether such liability is based on an action in contract, warranty, strict liability or tort (including, without limitation, general negligence, but excluding gross negligence or gross negligence or willful misconduct) or otherwise.

8.3 [Reserved].

IX. EMPLOYEES

9.1 No Employee Relationship.

The Contractor's resources are not and shall not be deemed to be employees of the Company. The Contractor shall be solely responsible for the payment of all compensation to its resources, including provisions for associated taxes, worker's compensation and any similar taxes associated with resources of the Contractor's personnel. The Contractor's resources shall not be entitled to any benefits paid or made available by the Company to its employees.

9.2 Non-Solicitation Obligations.

Services are a major component of the solution provided by the Contractor and as such the individual employees that provide the Services must be protected from solicitation for employment by the Company. During the term of each SOW and for a period of twelve (12) months thereafter, neither party shall, directly or indirectly, solicit for employment or employ, whether as an employee or independent contractor, or accept services provided by, any employee, officer or independent contractor of the other party who performed any work in connection with or related to the Services under the applicable SOW.

9.3 Right-to-Hire Clause.

If in the event the Company wants to offer full-time employment to any the Contractor's resource during the term of a SOW or during a period of six (6) months thereafter, the Company shall make such request to the Contractor in writing and will include agreement to compensate the Contractor no less than 30% of 1st year compensation package (including base and target bonus). The Contractor will then have a period of thirty (30) days to respond with acceptance/decline such offer.

X. TERM AND TERMINATION

10.1 Term.

The term of this Agreement will commence on the date first written above and, unless sooner terminated hereunder, will remain in effect for a term of one (1) year.

10.2 Termination.

This Agreement may be terminated by either party (the "non-defaulting party") if any of the following events occur by or with respect to the other party (the "defaulting party"): (i) the defaulting party commits a material breach of any of its obligations hereunder and fails to cure such breach within the time period set forth in Article 10.3 hereof or fails to reach an agreement with the non-defaulting party regarding the cure thereof; or (ii) any insolvency of the defaulting party, any filing of a petition in bankruptcy by or against the defaulting party, any appointment of a receiver for the defaulting party, or any assignment for the benefit of the defaulting party's creditors.

10.3 Remedies; Grace Period.

In the event either party commits a material breach of any its obligations hereunder, the non-defaulting party will so notify the defaulting party in writing (and, in such notice, indicate the nature of the breach and the assertion of the non-defaulting party's right to terminate). The defaulting party will have thirty (30) days (except ten (10) days in the case of payment of monies due) following receipt of such notice to cure such breach or, if such breach reasonably cannot be cured in thirty (30) days, such longer period of time as may be reasonably necessary to effect such cure if the defaulting party furnishes to the non-defaulting party within such thirty (30) day period a plan demonstrating that it is capable of curing the breach and thereafter diligently proceeds to prosecute such plan to completion. If such breach remains uncured after such cure period, the non-defaulting party may terminate this Agreement pursuant to Article 10.2 effective immediately by sending further notice to such effect.

10.4 Termination by the Contractor.

In the event the Contractor terminates this Agreement pursuant to this Article 10, the Contractor will be entitled to recover payment for all Services rendered through the date of termination (including for work-in-progress), those costs reasonably incurred in anticipation of performance of the Services to the extent they cannot reasonably be eliminated, any other reasonable

termination costs the Contractor incurs in connection with canceling any secondary contracts it undertook in anticipation of performance of the Services and any other actual damages suffered by the Contractor.

10.5 Termination by the Company.

In the event the Company terminates this Agreement pursuant to this Article 10, the Company may retain all Contractor Deliverables delivered to or for the benefit of the Company hereunder through the date of termination, whether in electronic or other form, upon payment by the Company for all accepted Contractor Deliverables and any other Services rendered through the date of termination. In addition, the Company may recover its actual damages, subject to the limitations set forth in Article 8 hereof.

10.6 Survival.

Those sections of this Agreement, that should logically survive termination or expiration of this Agreement, shall survive termination or expiration of this Agreement.

XI. MISCELLANEOUS

11.1 Excusable Delays and Failures.

Each party will be excused from delays in performing, or from its failure to perform, hereunder to the extent that such delays or failures result from causes beyond such party's reasonable control. Unavailability of personnel shall not be the basis for an excusable delay. The Company further acknowledges that such delays or failures shall be subject to change management procedures and may result in additional charges for the Services.

Accelerated / deceleration pace of SOW execution:

Fast track:

The Company acknowledges that if the Company requires the Contractor to perform on an accelerated schedule (i.e. pace faster than the Contractor's normal business procedure as dictated by the Contractor's quality business practices), the risk of errors in the design and development of Contractor Deliverable or Services increases as do certain costs such as but not limited to, express shipping of incoming purchases to the Contractor, charges for expedited manufacture, development and/or delivery of Contractor Deliverable or Services to the Contractor and, express shipping to the Company by the Contractor. The Company agrees that upon the Company's request to the Contractor to perform on an accelerated basis, the Company will compensate the Contractor (at the Contractor's then prevailing rates) for the additional costs incurred and work required as a result of the accelerated pace of SOW execution.

Slow Track:

The Company acknowledges that if the Company requires the Contractor to perform on a decelerated pace of SOW execution, also causes additional work and costs. If the Company decelerates the pace of SOW execution, the Company shall bear the additional costs and expenses associated with such deceleration including but not limited to compensating the Contractor for

"spin-up" time (inefficiency caused by starting and stopping) for the additional costs incurred (at the Contractor's then prevailing rates) and work required as a result of the decelerated pace of SOW execution

11.2 Interpretation.

When used in this Agreement, the singular will include the plural, and vice versa. "Including," "includes" and "include" mean, respectively, "including, without limitation," "includes, without limitation" and "include, without limitation".

11.3 Rights and Remedies.

Except as otherwise provided herein, the rights and remedies of the Parties provided in this Agreement are cumulative and not exclusive of any rights or remedies provided under this Agreement, by law, in equity or otherwise.

11.4 Waiver.

A waiver by any Party of any provision of this agreement in any instance shall not be deemed to waive it for the future. A Party's failure to insist on strict compliance with any of the terms of this agreement on one or more occasions is not a waiver of any rights or obligations under this Agreement.

11.5 Relationship of the Parties.

A. Agency. The relationship of the Parties is the same relationship as between parties to a business contract. Nothing contained in this Agreement, and no action by any Party, shall be deemed to: (i) create between them an employer-employee or principal-agent relationship or partnership, joint venture, association, or syndicate; or (ii) confer on any party any right, power or authority to enter into any agreement or commitment, whether express or implied, or to incur any obligation or liability on behalf of the other party. Neither party shall hold itself out as the agent of the other party, nor imply, nor fail to correct a misunderstanding, that there is an agency relationship between it and the other Party.

B. Non-Exclusive Relationship. At all times during the Term hereof and thereafter, the Parties shall each enjoy a non-exclusive relationship in all respects under this Agreement.

11.6 Notices.

Any notice required, permitted to be given, or otherwise given hereunder may be effectively given by letter delivered either by personal delivery, registered mail certified return receipt requested, postage prepaid, or delivered by overnight delivery service, or by facsimile machine upon receipt from the sender of a confirmation of receipt, or by other electronic means so long as the recipient has acknowledged receipt (for purposes of this section an automatically generated receipt confirmation does not qualify as acknowledgement of receipt), addressed to the recipient as follows:

In the case of the Contractor:
Aspect Engineering Group
1026 Calloway Drive Suite 100
Bakersfield, CA 93312
Attn: Jeff Jones
Tel: 661 670-6709
Email: jljones@aspecteg.com

In the case of the Company:
Carpinteria Valley Water District
1301 Santa Ynez Ave
Carpinteria, CA 93013
Attn: Greg Stanford
Tel: (805) 684-2816
Email: greg@cvwd.net

11.7 Assignment.

A. Except for assignment to a collection agency or attorneys for the purpose of collecting past-due monies owed hereunder, no Party (“Assignor”) may assign or otherwise transfer its rights or obligations under this Agreement, to a third party (“Assignee”), unless it is assigning all (but not less than all) of its rights and obligations hereunder as a result and subject to the prior written consent of the other Party (“Non-Assigning Party”), which consent shall not be unreasonably withheld or delayed.

B. Notwithstanding Article 11.7 A, any Party may assign or otherwise transfer all (but not less than all) of its rights and obligations under this Agreement, to (i) an affiliate or (ii) to a successor-in-interest as assignee, in the event of a merger or acquisition in which the successor acquires all or substantially all of the Assignor’s business assets, without the prior written consent of the Non-Assigning Party, provided that:

i. Assignor gives the Non-Assigning Party at least fifteen (15) days prior written notice of such impending assignment, which shall identify the Assignee and intended effective date of the assignment (“Notice of Assignment”); and

ii. the Non-Assigning Party has thirty (30) days after such Notice given, within which to give written notice to the Assignor or Assignee of its decision to terminate, and to terminate, the Agreement at will (except for those provisions that survive termination) and without liability therefore (“Notice of Termination”), effective on the date said Notice of Termination is given.

C. Any attempt to assign this Agreement or any of the rights or obligations hereunder in violation of this Section shall be null and void and, at the Non-Assigning Party’s election, grounds for the immediate termination of this Agreement for cause.

11.8 Successors and Assigns.

The Parties agree that this Agreement shall be binding upon each of its successors and assigns and that this Agreement may not be assigned to any other third party, without the written consent of the Company, which shall not be unreasonably withheld.

11.9 Enforceability.

If the scope of any provision of this Agreement is too broad to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the scope may be judicially modified to the extent necessary to conform to law.

11.10 Severability.

Each of the provisions of this Agreement (and each part of each such provision) is severable from every other provision hereof (and every other part thereof). In the event that any provision (or part thereof) contained in this Agreement or the application thereof to any circumstance shall be invalid, illegal or unenforceable, in whole or in part, and to any extent: (i) the validity, legality or enforceability of such provision (or such part thereof) in any other jurisdiction and of the remaining provisions contained in this Agreement (or the remaining parts of such provision, as the case may be) shall not in any way be affected or impaired thereby; (ii) the application of such provision (or such part thereof) to circumstances other than those as to which it is held invalid, illegal or unenforceable shall not in any way be affected or impaired thereby; (iii) if possible, such provision (or such part thereof) shall be construed or re-written as closely as possible to conform to the intent of the parties, in which instance parole or extrinsic evidence may be considered to do so; (iv) if not susceptible to such construction, such provision (or such part thereof) shall be severed from this Agreement and ineffective to the extent of such invalidity, illegality or unenforceability in such jurisdiction and in such circumstances; and (v) the remaining provisions of this Agreement (or the remaining parts of such provision, as the case may be) shall nevertheless remain in full force and effect.

11.11 Governing Law.

This Agreement shall be governed by and construed in all respects in accordance with laws of the state of California, as they apply to agreements entered into and to be performed entirely within the state of California between the Company and the Contractor residents, without regard to conflict of law provisions and shall be treated, in all respects, as a Master Service Agreement contract.

11.12 Venue.

The venue for any action or claim at law or in equity hereunder shall be exclusively in and with a court having jurisdiction over Santa Barbara County, California, if disputes are to be resolved in Court, if at all, as set out elsewhere herein, or if arbitration or mediation is to occur, if at all, as set out elsewhere herein, that shall be in the same location, and the Parties irrevocably consent to the exclusive personal jurisdiction of such federal or state courts or arbitrators. (If this Agreement is silent regarding resolution of disputes other than by a court of law or equity of competent jurisdiction then the first resort will be to a court of competent jurisdiction.) The Parties further agree and hereby consent to, and waive all defences of lack of personal jurisdiction and forum *non conveniens* with respect to, venue and

jurisdiction in Santa Barbara, California. Notwithstanding anything to the contrary any party may seek preliminary or permanent injunctive relief or restraining order arising out of or related to this Agreement from any court of competent jurisdiction, which rights and remedies shall be cumulative and in addition to any other rights or remedies at law or in equity to which any Party may be entitled.

11.13 Entire Agreement.

This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter hereof. The Parties shall not be bound or charged with any oral or written agreements, representations, warranties, statements, promises, information, arrangements or understandings not specifically set forth in this Agreement. This agreement has been carefully drafted and the Parties are convinced that this document completely and clearly expresses their intentions. Further, the parties place great value on the quick and inexpensive resolution of any dispute that may arise between them concerning this contract or the subject hereof. Therefore, the Parties agree that: (i) all disputes concerning this agreement or the subject matter hereof shall be resolved as provided herein; (ii) this Agreement constitutes the sole agreement among the parties, and supersedes any and all prior or contemporaneous oral or written agreements, promises, or understandings among them, pertaining to the matters contemplated in this Agreement; (iii) no express or implied representations, warranties, or inducements have been made by any party to any other party except as set forth in this Agreement; (iv) this Agreement may not be amended, added to, or altered except by a writing duly executed by each of the parties hereto, as set forth herein; and (v) no parole or extrinsic evidence whatsoever may be introduced or considered in any judicial or arbitration proceeding involving this agreement, for any purpose, including to interpret, explain, clarify, or add to this Agreement, except in any instance in which a provision is found in whole or in part to be invalid, illegal or unenforceable and subject to severability and the arbitrator or court undertakes to re-write or construe the severed provision as closely as possible to conform to the intent of the parties. For avoidance of doubt and for clarification, the primary subject matter of this Agreement concerns and relates to Confidential Information. While this Agreement also involves the Purpose – as it concerns or relates to Confidential Information - , should there be any pre-existing or subsequent written agreements between the Parties, regarding the Purpose or otherwise, then obviously this Agreement cannot and does not constitute the entire agreement regarding the Purpose. And while this Agreement may contain a provision concerning formation, amendments, etc., with regard to other existing, future, or purported agreements, and that is binding, if such a provision exists that is a subject matter of this Agreement.

11.14 Amendments.

No modification, revision, supplementation, abrogation, termination, extension, waiver, or amendment to or of this Agreement, or any other agreement between the Parties, (including any attachments or exhibits) or any of its provisions, may be made, and any attempts shall not be binding, unless agreed to by duly authorized representatives of the Parties, in writing, executed, as set forth below in this section. There shall be no oral agreements regarding the subject matter of this Agreement, or any other purported agreement between the Parties. Electronic writings, including e-mail messages, text messages, tweets, instant messages, etc., their contents, and any attachments or links, and any prior or subsequent communications including oral discussions or negotiations concerning some or all of this Agreement ,

or any other purported agreement between the Parties, are not intended to represent and do not reflect an offer or acceptance to enter into (or amend, modify, revise, terminate, abrogate, extend, waive a breach or damages of, etc.) a binding contract, transaction or agreement, and are not intended to and do not bind any Party to this Agreement, except as set forth below in this section. Absent the written electronic express statement to the contrary as set out below, it is the express intention of the Parties, and the Parties agree, with regard to or concerning this Agreement, or any other actual or purported agreement between the Parties, that the Parties may determine that they wish to attempt to negotiate and enter into written agreements that are binding, that amend, modify, supplement, revise, terminate, abrogate, extend, waive a breach or damages, of this Agreement, or any other purported agreement between the Parties, however, the Parties intend and will continue to intend that there shall be no contract formations, waivers, revisions, modifications, supplementations, abrogation, extensions, amendments, or modifications, without one or more formal written documents executed with holographic signatures by hand with ink pen on paper (aka “wet signatures” or “pen on paper signatures”), or by means of formal secure digital signature contract execution (such as by SignNow, or Adobe eSignature) (“secure digital signatures”), signed by duly authorized representative of each of the Parties. Any (alleged) communication to the contrary in the past, now or future, is not binding on any Party to this Agreement. The written express statement mentioned above (“electronic express statement”) shall be the following, or that which expresses the same intent as the following: “I expressly intend that this shall constitute an electronic signature to a writing thereby [forming, modifying, amending, abrogating, granting an extension in relations to, or waiving a breach to] a binding [contract or agreement].” For purposes of any agreement, a formal written document on paper with wet signatures (pen on paper signatures) or secure digital signatures and otherwise consistent with the requirements herein, which is transmitted by facsimile, the internet, or any cell/wireless/mobile telephone system, or the like, as an image or .pdf document is valid when signed by pen on paper, or secure digital signatures, by all parties to be charged. The parties expressly state and intend that emails / texts / tweets / instant messages, etc., sent or received - even when there are multiples or combinations of these - do not include all of the essential or material terms required in order for there to be a legally binding agreement or contract between the Parties, agree that there is no meeting of the minds, and, regardless, are ineffective for purposes contract formation, modification, amendment, waiver, revision, supplementation, abrogation, extension, etc., without the electronic express statement mentioned above. No addition to or modification or consensual cancellation of this Agreement, notice or statement shall be binding unless made in one or more formal written documents consistent with the pen on paper signatures, secure digital signatures, or “electronic express statement” requirements herein. Any purported communication to the contrary is not binding.

No waiver of any breach of any provision of this agreement, notice or statement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing and wet signed by pen on paper, secure digital signatures, or electronic express statement as set out herein.

11.15 Dispute Resolution.

The Parties shall endeavour to resolve any differences of opinion which may arise between them with respect to the provisions of this Agreement by negotiation between themselves personally or with the assistance of their attorneys and unless in the opinion of any party, acting reasonably, the matter in dispute is of such a significant nature to warrant it being addressed otherwise, no party shall commence any public proceedings until the negotiations have failed to produce a resolution. In furtherance of the

provisions of this paragraph, all Parties hereby agree to make themselves available on short notice and to negotiate promptly and in good faith, any matter any party may wish to negotiate. If there is no resolution then the Parties agree that any dispute, claim, or action hereunder shall be resolved exclusively by mediation and possible arbitration. If a dispute arises, the parties will try in good faith to settle it through mediation conducted by a mediator to be mutually selected. The parties will share the costs of the mediator equally. Each party will cooperate fully and fairly with the mediator and will attempt to reach a mutually satisfactory compromise to the dispute. If the dispute is not resolved within 45 days after it is referred to the mediator, it will be arbitrated by an arbitrator to be mutually selected. Judgment on the arbitration award will be binding and may be entered in any court that has jurisdiction over the matter. Costs of arbitration, including lawyers' fees, will be allocated by the arbitrator.

11.16 Construction.

If there is any controversy regarding this agreement or the terms of this Agreement, this Agreement, will be deemed to have been drafted by all parties herein and will not be strictly construed as against any party. The parties have been made aware of their right and opportunity to consult with independent legal counsel and have either done so, or knowingly waive the right to do so. Further, the parties acknowledge that they have engaged in negotiations to reach this Agreement.

11.17 Counterparts.

This Agreement, may be executed in several counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one and the same agreement, including the judicial proof of any of the terms hereof. A photocopy, fax copy, or electronic image copy, which depicts the inclusion of one or more signatures by pen on paper, shall be deemed an original.

11.18 Attorneys' Fees.

In the event of litigation or arbitration relating to the subject matter of this Agreement, the prevailing party shall have the right to collect from the other party its reasonable costs and necessary disbursements and attorneys' fees incurred in enforcing this Agreement.

11.19 Authority.

Each person signing warrants and represents that he or she has full authority to enter into this Agreement, and that all representations and warranties in this Agreement, are true and correct.

Aspect Engineering Group

Per:

Name: Jeff Jones

Title: General Partner

I have authority to bind the Contractor.

Carpinteria Valley Water District

Per:

Name: _____

Title: _____

I have authority to bind the Company.

