

MAR 2 2010

**PREMIER ELECTION SOLUTIONS, INC.
BALLOT PRINTING SERVICES AGREEMENT**

This Agreement is made as of the date it is executed by the last of the parties named below (the "Effective Date"),

BETWEEN: Premier Election Solutions, Inc., a Delaware corporation ("PES");

AND: El Dorado County, California ("Customer")

RECITALS:

A. Customer has agreed to purchase certain election-related services from PES for use in El Dorado County, California (the "Jurisdiction"). The terms and conditions under which such services shall be provided are set forth in the **GENERAL TERMS** attached hereto.

B. The following Exhibits are incorporated into, and constitute an integral part of, this Agreement (check all that apply):

X Exhibit A (Summary of Services)

X Exhibit B (Ballot Printing Services)

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the parties hereto:

- Agrees to the **GENERAL TERMS** and the terms and conditions set forth in each Exhibit.
- Agrees that at all times, this Agreement shall be governed by and construed in accordance with the laws of the State of California.
- Represents and warrants to the other party that as of its signature date indicated below it has full power and authority to enter into and perform this Agreement, and that the person signing below on its behalf has been properly authorized to execute this Agreement.
- Acknowledges that it has read this Agreement, understands it and intends to be bound by it.

Premier Election Solutions, INC.
11208 John Galt Boulevard
Omaha, NE 68137
Fax No.: (402) 970-1291

EL Dorado County
2850 Fairlane Court
Placerville, CA 95667
Fax No.: (530) 626-5614

Signature

Signature

Name (Printed or Typed)

Name (Printed or Typed)

Title

Title

Date

Date

[Handwritten Signature]

T. Owens

CFO

2/20/10

[Handwritten Signature]

Norma Santiago

Chair, Board of Supervisors

3/16/10

**ATTEST: SUZANNE ALLEN de SANCHEZ,
Clerk of the Board of Supervisors**

By *[Handwritten Signature]*
DEPUTY

GENERAL TERMS AND CONDITIONS

1. **Consideration.** The consideration to be paid by Customer to PES for the services provided hereunder is set forth on the accompanying Exhibits.

2. **Limitation of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. PES' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to PES hereunder. Any action by Customer against PES must be commenced within one (1) year after the cause of action has accrued. By entering into this Agreement, Customer agrees to accept responsibility for the selection of, use of and results obtained from any services not provided by PES..

3. **Excusable Nonperformance.** Except for a delay or failure in the payment of money, if either party is delayed or prevented from performing its obligations under this Agreement due to any cause beyond its reasonable control, including natural disaster, fire, flood, unusually severe weather, terrorism, insurrection, war, Acts of God, labor disputes and governmental regulations, the delay shall be excused during the continuance of, and to the extent of, such cause, and the period of performance shall be extended to the extent necessary to allow performance after the cause of delay has been removed. PES agrees to work with Customer, at Customer's request, to develop mutually agreeable alternatives in order to minimize the negative impact of any such delay.

4. **Exclusive Service Provider.** Customer hereby agrees to purchase the products and/or services set forth on Exhibit B attached hereto from PES for the Term of this Agreement at the pricing set forth on each applicable Exhibit. Customer's agreement to purchase all of such products and services from PES for the entire Term entitles Customer to receive the preferred pricing for each product or service as provided herein. In the event that Customer terminates its purchase commitment prior to expiration of the Term of this Agreement for any reason other than for cause pursuant to Section 5 of this Agreement or purchases any such products or services from a provider other than PES, or does not pay for such products or services provided by PES pursuant to the payment terms in Exhibit A during the Term, Customer shall no longer be entitled to receive the pricing set forth on Exhibit B, as applicable, and shall pay PES its then current rates for such product and services.

5. **Term; Termination.** This Agreement shall be in effect for a three year period beginning on the Effective Date, covering all elections within the Jurisdiction beginning sixty (60) days after the Effective Date (the "Term"). This Agreement may be terminated, in writing, at any time by either party if the other party breaches any material provision hereof and does not cure such breach within thirty (30) days after it receives written notification thereof from the non-breaching party.

6. **Assignment.** Except in the case of a sale, transfer or assignment of all or substantially all of the assets of PES to a successor who has asserted its intent to continue the business of PES, neither party may assign or transfer this Agreement or assign any of its rights hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld.

7. **Entire Agreement.** This Agreement, including all Exhibits hereto (all of which are incorporated herein by this reference), contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. In the event of any conflict between a provision contained in an Exhibit to this Agreement and these General Terms, the provision contained in the Exhibit shall control. No waiver, amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party.

8. **Notice.** Any notice or other communication required or permitted hereunder shall be in writing, and will be deemed given when delivered personally, sent by confirmed fax, sent by commercial overnight courier (with written verification of receipt) or sent by registered or certified mail, return receipt requested, postage prepaid, when the return receipt is received. All communications shall be sent to the attention of the persons listed on the signature page to this Agreement and at the addresses or fax numbers set forth on such signature page unless other names, addresses or fax numbers are provided by either or both parties.

9. **Disputes.**

Remedies for Past Due Payments. If any payment to PES is past due more than five (5) days, PES may suspend performance under this Agreement until such amount is paid.

Dispute Resolution Process. Time is of the essence in resolving disputes. The initiating party shall notify the responding party of any dispute, including all relevant information (e.g., the nature of the dispute, dates, times, persons involved). The responding party shall respond to the notification within five (5) business days. Thereafter, the parties shall use their good faith efforts to resolve the dispute within a reasonable period of time. Notwithstanding anything in this Section 9 to the contrary, either party may apply to any court having jurisdiction over the subject matter of the dispute for a temporary restraining order, preliminary injunction, or other appropriate legal remedy at any time.

10. **Other.** In performing its obligations or enjoying its rights under this Agreement, each party shall comply with all applicable laws and regulations. PES is providing its services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. PES will not be responsible for (a) user errors, (b) voter errors or (c) problems encountered by any individual in voting. PES may engage subcontractors to provide certain of the services, but shall remain fully responsible for such performance. The provisions of Sections 1-4, 6, 8 and this Section 10 shall survive the termination of this Agreement, to the extent applicable.

[END OF GENERAL TERMS]

**EXHIBIT A
SUMMARY OF SERVICES**

Sale Summary:	
Description	Refer to
Ballot Printing Services	Exhibit B
Terms & Conditions:	
Note 1: Any applicable state and local taxes are not included, and are the responsibility of Customer.	
Note 2: Payment terms: Ballot Printing Services will be invoiced as Services are provided. 100% of invoice total due within thirty (30) calendar days of invoice date.	
Note 3: Customer understands, acknowledges and agrees that PES' fees for the services as set forth on the accompanying exhibits are based upon (a) a contractual commitment by Customer to subscribe for and purchase such services for a period of at least three (3) years, (b) PES' dedication of sufficient resources during the Term to perform such services and provide associated prioritization of Customer in its service deliveries, and (c) the descriptions of such services in the accompanying exhibits. In the event that Customer changes its commitment to a period of less than three (3) years for any reason other than a termination for cause pursuant to Section 5 of this Agreement, Customer hereby agrees to promptly pay a balance due charge using the Non-Discounted Fees applied to the Ballot Printing Services provided to the Customer up through the date of early termination.	

**EXHIBIT B
BALLOT PRINTING SERVICES**

Setup Charges	Discount Fees	Non-Discounted Fees
Initial Election Database Setup (per database)	\$350.00	\$350.00
Supplemental Ballot Order (per database)	\$150.00	\$150.00

Base per Ballot		
Duplex 11" and 14" Ballot	\$0.21	\$0.28
Duplex 17" and 18" Ballot	\$0.29	\$0.29

Absentee and Mail Ballots		
Scoring / Folding	Included	Included
Variable Data Printing	Included	Included
Full Four Color/Digital Printing Process	Included	Included
Packaging by Precinct by Density	Included	Included
Additional Party Ballots over Three	\$0.02	\$0.02

Poll Ballots		
Staple or Shrink Wrap	Included	Included
Variable Data Printing	Included	Included
Full Four Color/Digital Printing Process	Included	Included
Packaging by Precinct by Density	Included	Included
Additional Party Ballots over Three	\$0.02	\$0.02

Test Decks		
Duplex 11" and 14" Test Deck	\$0.28	\$0.28
Duplex 17" and 18" Test Deck	\$0.29	\$0.29
Expected Result Reporting	Included	Included

Note 1: Prices are exclusive of freight, which will be billed separately.

Note 2: Special requests, including watermarking, unique packaging requirements and expedited delivery requirements are not included in the table above, and will be priced separately.

Note 3: The above pricing assumes the use of PES partner printers. The use of a Customer requested printer may result in a change in the fees outlined above.

Note 4: Unexpected and material changes in costs such as paper may result in changes to the fees reflected above.

[END OF EXHIBIT B]