

# DEMOCRACY LIVE, INC.

## LiveBallot Subscription Agreement

This Subscription Agreement ("**Agreement**") is made and entered into as of October 10, 2012 (the "**Effective Date**"), between Democracy Live aka Live Ballot Inc., a Nevada corporation with offices at 2900 NE Blakely Seattle, WA ("**Democracy Live**") and County of Nueces, with offices at 901 Leopard Street, Corpus Christi, TX ("**State**"), each a "**Party**" and collectively, the "**Parties**."

It is noted and agreed that the Nueces County Clerk is the County department that will be utilizing and administering this contract.

### **1. Subscription, Delivery and License**

1.1. Subscription. Subject to the terms of this Agreement, Democracy Live will provide to County of Nueces a hosted, Web-based accessible sample ballot delivery system ("**LiveBallot**") as set forth in this Agreement and the documentation for LiveBallot system as described in Attachment A.

1.2. Delivery. After both parties execute this Agreement, Democracy Live will deploy LiveBallot, the Documentation and all access information (which includes a user name and password) to allow County of Nueces to access LiveBallot.

1.3. License. Subject to the terms of this Agreement, Democracy Live hereby grants County of Nueces a limited, non-exclusive, non-transferable, non-sub-licensable license to use LiveBallot.

### **2. Fees**

2.1. Fees. County will pay to Democracy Live the set-up and Annual Subscription

Fees (defined in Attachment B) in accordance with Attachment B - Fee Schedule.

2.2. Payment Terms. County of Nueces will make all payments under this Agreement within thirty (30) days after the date of the invoice by Democracy Live. Any late, undisputed amounts will bear a late fee in the amount of 1% per month.

### **3. LiveBallot Annual Subscription - Support and Maintenance**

3.1. Democracy Live will provide set-up and support for the LiveBallot tool for each election for the length of this Agreement.

3.2. County of Nueces will be trained to independently set-up LiveBallot for each election.

3.3. Democracy Live will provide periodic version updates and upgrades to LiveBallot.

Democracy Live LiveBallot Subscription Agreement

IN WITNESS WHEREOF, the authorized representatives of the Parties have executed this Agreement and all Attachments hereto as of the Effective Date.

**Democracy Live:**

DEMOCRACY LIVE, INC  
AKA LIVE BALLOT INC.

**Customer :**

COUNTY OF NUECES

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

By \_\_\_\_\_

Name: Bryan D. Finney

Name: Samuel Loyd Neal, Jr.  
County Judge \_\_\_\_\_

Title: President

Attest: \_\_\_\_\_  
Diana T. Barrera, County Clerk

## ***Attachment A – LiveBallot***

This Attachment A is part of LiveBallot Subscription Agreement (“***Agreement***”) between Democracy Live and the County of Nueces and it describes LiveBallot, and Documentation to be provided under the Agreement.

### ***A1. LiveBallot. The Democracy Live LiveBallot is comprised of the following subcomponents:***

- Access to hosted LiveBallot; a hosted, Web-based accessible sample ballot delivery system.
- LiveBallot Link. A link shall be placed on the County of Nueces Elections Web site that links to the County-Specific LiveBallot Sample Ballot tool. LiveBallot will have the same look and feel as the County of Nueces Web site.
- Voter Polling Place Look-up

### ***A2. Documentation:***

The Documentation packet for Democracy Live LiveBallot is comprised of the following subcomponents:

- Technical Manual, including FAQ’s and Administrative instructions will be provided
- User Guide: “How To Use LiveBallot” Instruction Guide will be made available to County of Nueces.
- Release Notes- County of Nueces will be notified of version updates and new releases. Release Notes will be available on the State/County LiveBallot Admin Page.

## ***Attachment B – Fee Schedule***

This Attachment B is part of LiveBallot Subscription Agreement ("***Agreement***") between Democracy Live and the County of Nueces and it sets forth the fees under the Agreement.

### ***B1. Fees***

- (a) LiveBallot One-time Set-up Fee. LiveBallot One-time Set-up Fee for this County under this Agreement will be **\$24,500**. Democracy Live will invoice the County of Nueces for this fee when all Parties sign this Agreement and LiveBallot is delivered and accepted by the County.
  
- (b) Election Subscription Fee, including Support and Maintenance. For each year in which this agreement is in effect, the County of Nueces will pay an Election Subscription based on pricing of \$1.00 per UOCAVA ballot downloaded per voter and submitted through the LiveBallot system if County of Nueces chooses to utilize the LiveBallot UOCAVA module. It is agreed by the parties that for the calendar years 2012 through 2014, the \$1.00 per download fee shall be waived. The Election Subscription Fee will be invoiced 30 days following each election.

## ***Attachment C –Support and Maintenance***

This Attachment C is part of LiveBallot Subscription Agreement (“**Agreement**”) between Democracy Live and the County of Nueces describes Democracy Live’s standard Support and Maintenance services and other terms.

### **1. Support and Maintenance Services:**

- 1.1** Democracy Live will perform the Support and Maintenance as specified in this Attachment C and under the terms of the Agreement.
- 1.2** County may contact the Democracy Live support contacts via telephone and email support.

### **2. County Responsibilities:**

- 2.1** County must provide Democracy Live with reasonable access to all necessary personnel to answer questions regarding Errors and other reported problems.
- 2.2** County will document and promptly report all LiveBallot issues to Democracy Live by submitting a Support Request with enough detail to permit Democracy Live to reproduce the Error. County will assist Democracy Live with recreating and diagnosing each Error.

### **3. Response Times:**

- 3.1** Democracy Live will use the following severity levels to categorize Support Requests and provide Support and Maintenance to County. Democracy Live provided 24/7 Toll Free support during elections.
- 3.2** Election Period. Democracy Live will provide Support and Maintenance on a 24/7 basis. If a reported error impacts the essential functions of an election, Democracy Live will use commercially reasonable efforts to work around the clock as long as meaningful progress can be made or until a resolution is found.

### **4. Contacts**

- 4.1** County Contact Persons. County of Nueces will designate one person to act as the single point of contact for all Support Requests, and one additional person to serve in a back-up capacity. The County contact person will handle all communication with Democracy Live support personnel and will be relied upon by Democracy Live for key decisions.
- 4.2** Democracy Live Support Contacts. Contact with Democracy Live support personnel will be either by telephone or e-mail at the contact points set forth below. County Support Requests will include all information reasonably requested by Democracy Live support

personnel sufficient to enable them to reproduce the condition giving rise to the call.

## 5. Maintenance Releases:

- 5.1 Maintenance Releases. During the term of the Annual Subscription, Democracy Live will provide Maintenance Releases, which are provided generally to all customers, where these Maintenance Releases are not sold as a separate Upgrade, service or product version. Each Maintenance Release will be subject to the terms of the Agreement.
- 5.2 Implementation. Democracy Live is responsible for implementing and testing all Web-based Maintenance Releases.

## 6. General

- 6.1 License Fee, Including Support and Maintenance. County of Nueces will pay the Initial License Fee as specified in Attachment B of the Agreement.
- 6.2 Term The initial term for the Annual, including Support and Maintenance, will be two years, commencing on the Effective Date of the Agreement, and will renew for subsequent one year terms automatically on each Anniversary of the Effective Date, provided that County may terminate the License Fee by notifying Democracy Live in writing at least sixty (60) days in advance of the renewal date. Democracy Live may suspend or terminate the Annual Subscription if County does not pay the Fees when due. The Annual Subscription, including Support and Maintenance, will terminate if the Agreement expires or is terminated.
- 6.3 Governing Law and Venue. The governing law will be that of the State of Texas without regard to principles of conflicts of law. Venue shall be in a court of competent jurisdiction in Nueces County, Texas.
- 7. **INDEMNIFICATION. In the event any claim is brought against County in the United States by a third party (other than by a third party related to County) for copyright infringement by the Democracy Live Software as to any copyright protected under United States law, Democracy Live will, at its sole option and expense, defend or settle such claim provided that County advises Democracy Live in writing of the existence of any such claim in the most expeditious reasonable means upon learning of the assertion of the claim (whether or not a lawsuit or other proceeding has been filed or served), and cooperates fully with Democracy Live in all matters having to do with such claim, whether directly or indirectly.**

### 7.1

**Attachment D – Notice and Relationship Managers**

This Attachment D is part of LiveBallot Subscription Agreement (“**Agreement**”) between Democracy Live and the County of Nueces sets forth the notice contacts and Relationship Managers of the Parties under the Agreement.

<b>For Democracy Live:</b>	<b>For County :</b>
Address: Democracy Live 2900 NE Blakely Seattle, WA 98105	Address: 901 Leopard, Rm 201 Corpus Christi, Texas 78401
Telephone: 425-557-5950 Fax: 425 557-5956	Telephone: 361-888-0580 Fax:
Relationship Manager: Tim Manion 207-778-1167 tim@democracylive.com	Relationship Manager: Diana T Barrera 361-888-0580 diana.barrera@co.nueces.tx.us