

LIQUIDATED DAMAGES

1. If, in the judgment of the Department Head, the Contractor is deemed to be non-compliant with the terms and obligations assumed hereby, the Department Head, or his/her designee, at his/her option, in addition to, or in lieu of, other remedies provided herein, may withhold the entire monthly payment or deduct pro rata from the Contractor's invoice for work not performed. The work not performed and the amount to be withheld or deducted from payments to the Contractor from the County, will be forwarded to the Contractor by the Department Head, or his/her designee, in a written notice describing the reasons for said action.

2. If the Department Head determines that there are deficiencies in the performance of this Contract that the Department Head deems are correctable by the Contractor over a certain time span, the Department Head will provide a written notice to the Contractor to correct the deficiency within specified time frames. Should the Contractor fail to correct deficiencies within said time frame, the Department Head may:
 - (a) Deduct from the Contractor's payment, pro rata, those applicable portions of the Monthly Contract Sum; and/or

 - (b) Deduct liquidated damages. The parties agree that it will be impracticable or extremely difficult to fix the extent of actual damages resulting from the failure of the Contractor to correct a deficiency within the specified time frame. The parties hereby agree that under the current circumstances a reasonable estimate of such damages is One Hundred Dollars (\$100) per day per infraction, or as specified in the *Performance Requirements Summary (PRS) Chart*, as defined in *Appendix __, Technical Exhibit __*, hereunder, and that the Contractor shall be liable to the County for liquidated damages in said amount. Said amount shall be deducted from the County's payment to the Contractor; and/or

 - (c) Upon giving five (5) days notice to the Contractor for failure to correct the deficiencies, the County may correct any and all deficiencies and the total costs incurred by the County for completion of the work by an alternate source, whether it be County forces or separate private contractor, will be deducted and forfeited from the payment to the Contractor from the County, as determined by the County.

3. The action noted in paragraph 2 shall not be construed as a penalty, but as adjustment of payment to the Contractor to recover

the County cost due to the failure of the Contractor to complete or comply with the provisions of this Contract.

4. This paragraph shall not, in any manner, restrict or limit the County's right to damages for any breach of this Contract provided by law or as specified in the PRS or paragraph 2, and shall not, in any manner, restrict or limit the County's right to terminate this Contract as agreed to herein.