

CONTRACT NAME: AGREEMENT BETWEEN CONTROLTEC, INC. AND DAVIS JOINT UNIFIED SCHOOL DISTRICT

BRIEF DESCRIPTION OF CONTRACT: This agreement between ControlTec, Inc. and DJUSD allows the Children's Center to track pertinent information as it pertains to attendance which is required by the state as well as immunization data and fees for private pay.

The initial cost for this service including the set-up fee is \$4,280 for the first year with an annual fee of \$1,416 for subsequent years. The service is being paid for by the California State Preschool Program (CSPP) funds and private pay fee-based preschool funds.

DAVIS JOINT UNIFIED SCHOOL DISTRICT

**AMENDMENT TO CLOUD- BASED SOFTWARE AGREEMENT INVOLVING
PUPIL RECORDS**

**EDUCATION CODE SECTION 49073.1 AMENDMENT TO THE CONTROLTEC
AGREEMENT BETWEEN THE DAVIS JOINT UNIFIED SCHOOL DISTRICT AND
CONTROLTEC, INC.**

THIS AMENDMENT (“Amendment”) to the **Controltec** Agreement by and between the Davis Joint Unified School District, a public school district of the state of California and Controltec, Inc., a corporation, dated December 7, 2016 (“Agreement”) (a true and correct copy of which is attached hereto as Exhibit “A” and is hereby made and entered into as of December 7, 2016 as follows:

WHEREAS, Vendor provides software that will serve as an early education student information system for student information, eligibility, determination and fiscal management.

WHEREAS, as a California public school district, the District is subject to the California Education Code;

WHEREAS, Vendor is a “third party” under Education Code section 49073.1, which defines “third party” as a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records;

WHEREAS, Education Code section 49073.1 requests that any contract for the provision of services entered into between District and Vendor contain certain provisions specified in sections (b)(1) through (b)(9) of Education Code section 49073.1; and

WHEREAS, The District and Vendor desire to amend the terms in their Agreement that will satisfy the requirements of Education Code section 49073.1.

NOW, THEREFORE, DISTRICT AND VENDOR AGREE TO THE FOLLOWING TERMS IN COMPLIANCE WITH EDUCATION CODE SECTION 49073.1.

1. Ownership and Control of Pupil Records. Pupil Records shall continue to be the property of and under the control of the District in accordance with California Education Code section 49073.1. For purposes of this contract, “Pupil Records” means both any information directly related to a pupil that is maintained by the District and information acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other District employee. For purposes of this Agreement, “Deidentified Information” means information that cannot be used to identify an individual pupil. For purposes of this Agreement, “Pupil Records” does not include Deidentified Information, including aggregated Deidentified Information, used by Vendor to improve educational products for adaptive learning purposes and for customizing pupil learning; to demonstrate the effectiveness of Vendor's products in the marketing of those products; or for the development and improvement of educational sites, services, or applications.

2. Ownership and Control of Pupil-Generated Content. Pupils may retain possession and control of their own Pupil-Generated Content, as defined herein, or may transfer Pupil-Generated

Content to a personal account by notifying the District's Director of Technology in writing of such request. **Use of Pupil Records.** Vendor shall not use any information in the Pupil Records for any purpose other than those required or specifically permitted by this Agreement.

3. **Review of Pupil Records.** A parent, legal guardian, or pupil who has reached the age of eighteen (18) may review personally identifiable information in the pupil's records and correct erroneous information by notifying the District's Director of Technology in writing of such request. The District will meet with parent, legal guardian, or pupil who has reached the age of eighteen (18) to review and correct any information in the Pupil's Records. The District will notify Vendor of the need to review Pupil Records and/or make corrections to any Pupil Records in writing. Vendor shall provide such Pupil Records and/or correct such errors within five (5) days of receipt of written notice. Vendor shall cooperate with the District in complying with this mandate.

4. **Security and Confidentiality of Pupil Records.** Vendor agrees to hold Pupil Records in strict confidence. Vendor shall not use or disclose Pupil Records received from or on behalf of District except as permitted or required by this Agreement, as required by law, or as otherwise authorized in writing by District. Vendor agrees that it will protect the Pupil Records it receives from or on behalf of District according to commercially acceptable standards and no less rigorously than it protects its own confidential information. Vendor will designate and train responsible individuals, to ensure the security and confidentiality of Pupil Records. Vendor shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted Pupil Records received from or on behalf of District, as set forth in this contract. These measures shall be extended by contract to all subcontractors used by Vendor. If District reasonably determines in good faith that Vendor has materially breached any of its obligations under this Section, District may, in its sole discretion, terminate the Agreement immediately if cure is not possible. District shall provide written notice to Vendor describing the violation, the action it intends to take and the timeframe for such action.

5. **Breach Notification Process.** Vendor, within one (1) business day of discovery, shall report to District any use or disclosure of Pupil Records not authorized by the Agreement or otherwise authorized in writing by the District. Vendor's report shall identify: (i) the nature of the unauthorized use or disclosure; (ii) the Pupil Records used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Vendor has done or shall do to mitigate any effect of the unauthorized use or disclosure, and (v) what corrective action Vendor has taken or shall take to prevent future similar unauthorized use or disclosure. Vendor shall provide such other information, including a written report, requested by District. In the event of an unauthorized disclosure of a Pupil's Records, affected parents, legal guardians, or pupils who have reached the age of eighteen (18) will be notified in writing and provided with details and next steps to address the specific breach. Compliance with these requirements shall not, in itself, absolve Vendor of liability in the event of an unauthorized disclosure of Pupil Records.

6. **Retention and Destruction of Pupil Records.** Vendor certifies that a pupil's records shall not be retained or available to Vendor upon completion of the term of the contract. At the termination of the contract, Pupil Records in the possession of Vendor shall be returned and/or destroyed. Upon termination, cancellation, expiration or other conclusion of the contract, Vendor shall return all Pupil Records to District in a format acceptable to District, or if return is not feasible as determined by District in written notice to Vendor, destroy any and all Pupil Records. Vendor shall not destroy any Pupil Records without express written permission of District. Vendor shall comply with any litigation hold or order to preserve Pupil Records.

7. **Compliance with Applicable Laws.** The District and Vendor will jointly ensure compliance with the federal Family Educational Rights and Privacy Act ("FERPA") (20 U.S.C. Sec. 1232g) through following the confidentiality provisions as set forth in this contract, as well as applicable District Board policies. The parties acknowledge and agree that the District is subject to federal and local laws relating to the protection of personally identifiable information ("PII") of students, including FERPA, and that Vendor is obtaining such PII as a "school official" under section 99.31 of FERPA for the purpose of providing the services hereunder. In addition to FERPA, Vendor shall comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable to Vendor; the services being provided by Vendor; Vendor's business, equipment and personnel engaged in operations covered by this contract; and the protection of Pupil Records and PII, including but not limited to Education Code section 49060 *et seq.*, the Children's Online Privacy Protection Act (COPPA) and the Student Online Personal Information Protection Act (SOPIPA). Vendor certifies that it is familiar with these laws, as well as any other applicable requirements for the storage and transmission of Pupil Records and Vendor will comply with all such requirements.

8. **Prohibition on Targeted Advertising.** Vendor shall not use PII in Pupil Records to engage in targeted advertising.

9. **Governing Law and Venue.** The Agreement and this Amendment shall be governed by and construed in accordance with the laws of the State of California. Any dispute, claims, demands or actions arising out of or in relation to the Agreement and this Amendment shall be brought in and resolved by the Superior Court of the County of Yolo.

10. **Effect of Amendment.** If any provisions of this Amendment to the Agreement conflict or are otherwise contrary to the original terms of the Agreement, the terms of this Amendment prevail.

Except as specifically modified herein, all other terms and conditions contained in the Agreement between the District and Vendor shall remain unchanged and in full force and effect.

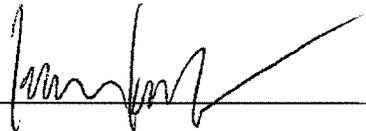
Dated this 20 day of December, 2016.

Davis Joint Unified School District

By: _____

Its: _____

Controltec

By:  _____

Its: President _____

CenterTrack® System Deployment Agreement

THIS CenterTrack® System Deployment Agreement including its appendices (the "Agreement"), dated as of _____, 2016 (the "Effective Date"), is made and entered into by and between Controltec, Inc. ("Controltec"), having its principal place of business at 613 West Valley Parkway, Suite 345, Escondido, California 92025, and Davis Joint Unified School District ("Client"), having its principal place of business at 526 B Street, Davis, CA 95616. Herein, either of Controltec or Client is referred to as a "Party" and together they are referred to as "Parties."

WHEREAS, Controltec has developed proprietary software known by the trade name of CenterTrack, and

WHEREAS, Client desires, and has the administrative capability, to implement CenterTrack, and

WHEREAS, Controltec has the expertise and knowledge to deploy and support CenterTrack, and

WHEREAS, the Parties are each authorized and empowered to enter into this agreement,

NOW, THEREFORE, for good and valuable consideration, including the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Responsibilities of Controltec. Under the terms hereof, and in consideration of the payment of the Project Start Fee, the Deployment Complete Fee, the System Complete Fee and, License Fee(s), Service Usage Fee or Client Hosted Usage Fee, and Maintenance Fee (all as defined and set forth in Exhibit A, Terms hereto, which appendix is incorporated herein by this reference) Controltec shall provide to Client for the Term (as hereinafter defined) a non-transferable and non-exclusive license to use, and have used, only for Client's own purposes, without any right to sell, rent, sub-license, provide to others (whether for a fee or not), reverse engineer or disassemble, or permit any third party to so do, a proprietary software system of Controltec, incorporating functionality of CenterTrack, to track and maintain historical data regarding the pertinent attributes of, and relationships among, casework and eligibility staff, cases, eligibility periods, clients, parents, children, childcare centers, schedules, approved rates, attendance reports, parent fee invoices, relative to the regulations and processes associated with the State of California's childcare subsidy programs (the "Software"). Controltec shall also provide Maintenance Services (as hereinafter defined). Such Software and Maintenance Services shall be generally in accordance with Controltec's proposal document which is attached hereto as Exhibit A and incorporated herein by this reference. "Training" and "Program Management" (both to the extent set forth in Exhibit A) shall be provided by Controltec. In general, the Software as competently used by the Client will:
 - a) Track pertinent child information as it pertains to the attendance at any of Client's childcare centers;
 - b) Facilitate (to the degree reasonably possible) the process of entering attendance data into system using bills/attendance sheets from all Client's childcare centers;
 - c) Facilitate (to the degree reasonably possible) document tracking, correspondence issuance and report generation by automating these tasks.

2. Responsibilities of Client. During the Term Client shall cooperate with Controltec, so that Controltec can fulfill its responsibilities, in particular, and without limitation, and at its cost, by:
 - a) Agreeing with Controltec within ten (10) calendar days of the execution hereof on a timetable of activities leading to the installation of the Software on Controltec's servers (the "Timetable"), the date of such agreement being the "Project Start Date," and the Timetable shall set forth the target for the date upon which the Software shall have been installed on Controltec's server for the Client (the "Deployment Complete Date") and the target for the subsequent date upon which Training shall have been completed (the "System Complete Date").
 - b) Confirming by its execution hereof that the Software functions as explicitly set forth in Exhibit A hereto will satisfy its requirements and result in the immediate payment to Controltec of the amount of the System Complete Fee;
 - c) Timely providing to Controltec full, complete and accurate responses to inquiries of Controltec that arise during the Term;
 - d) Timely providing staff in amounts and with personal competence necessary to operate the Software;
 - e) To the extent set forth herein, ensuring that Client does not sell, rent, sub-license, provide to others (whether for a fee or not), reverse engineer or disassemble the Software, or allow any third-party to access the Software;
 - f) Providing, at its own cost, Internet access at all its facilities that need to have access to the Software;
 - g) Providing, at its own cost, telephone service in the event Client would like to contact Controltec technical support for assistance, online training sessions, one-on-one or in general training webinars conducted by Controltec.

3. Service Usage. During the Term, and in consideration of the timely payment by the Client of the amount of either the Service Usage Fee or the Client-hosted System Usage Fee, Controltec shall enable Client use of an Internet-based system for childcare center management for childcare agencies, known as CenterTrack, as set forth in Exhibit A hereto ("Service Usage").
 - a) Controltec shall be responsible for all hardware, system and utility software, and operating and Intranet connection costs of the computer system on which the Software is resident.
 - b) The Software shall be accessed by standard Internet connections by individuals or entities authorized by the Client logging in to an Internet web site. CenterTrack is maintained and updated to be compliant with requirements of the State of California Department of Education. Controltec reserves the right to set reasonable implementation schedules for new requirements after the requirements are published. Among other constraints, such usage on behalf of the Client shall be:
 - (i) Restricted to the sole and direct business purposes of the Client and not extend to any other person or entity.
 - (ii) Utilized only for lawful purposes and not in violation of any municipal, state or federal statute, code or regulation.

- (iii) Subject to immediate discontinuance by Controltec at any time and without notice to Client in the event that Controltec at any time reasonably determines that the service is being utilized by the Client, or by persons or entities authorized by Client, in contravention of the terms and provisions of this Agreement. Such discontinuation shall be treated as a termination by Controltec for Cause on the part of the Client, as set forth in Paragraph 6 hereof.
4. Maintenance Services. During the Term, and in consideration for the timely payment by the Client of the amount of the Maintenance Fee, Controltec shall provide a maintenance service from its California facilities which "Maintenance Services" shall:
- a) Be generally responsive to telephone and e-mail requests from Client in providing Client with assistance in the use of the Software by any reasonably competent individual. Controltec will respond within one business day, or better, during its normal business hours at Controltec's Escondido location, Monday through Friday, from 8:00 a.m. to 5:00 p.m. Pacific Standard Time. The resolution of the issue responded to may require additional time, depending upon its complexity. Controltec will provide at no extra cost to Customer up to eight (8) hours per month of time expended by Controltec on combined telephone, email, on-line support, and staff time involved in researching Customer issues. Unused time does not carry forward to subsequent months. If Client exceeds eight (8) hours per month of assistance, Controltec will inform Client in writing before charging any extra costs.
 - b) Be reliant upon Client providing documentation, in a format prescribed by Controltec, indicating that a problem is believed by Client to be caused by a defect in the Software. Upon receipt of such completed documentation, Controltec will use commercially reasonable efforts to respond to a defect in the Software within three (3) business days by issuing defect correction information, such as correction documentation, corrected code, or notice of availability of corrected code, or a restriction or a bypass. If an error attributable to a defect in the Software does not allow the Software to perform necessary processing functions ("Critical Error"), Controltec agrees to begin correction of the Critical Error immediately upon Client's notice to Controltec thereof and to provide diligent and continuous support until the Critical Error is corrected. Corrected code provided by Controltec to Client shall be deemed to be a part of the Software.
 - c) Provide custom, programming services to add to or modify the functionality of the Software ("Extra Services"), including the preparation of forms for which data is not then resident in the data records of the Software, correct operating problems of the Software caused by the Client (other than in following the specific written instructions of Controltec) and other technical support requested by the Client, including the conversion of data from or to the format of the Software. The cost of such, and any additional effort required by Controltec as a result of the extension of, or delays to, the Timetable by the Client, shall be payable by the Client within thirty (30) calendar days of presentation of an invoice by Controltec which shall rate the actual hours expended and travel time, if any, at the Hourly Rate (as defined in Exhibit A hereto), with the addition of any required travel and accommodation costs or expenses related thereto incurred by Controltec, if any. Any software features resulting from Extra Services are the exclusive property of Controltec and shall be deemed to be Software.

- d) Make available to the Client for purchase any optional modules (“Additional Software”). Additional Software will be considered any new program features not specifically included in Exhibit A hereto. In the event Client purchases any Additional Software, then such shall be considered Software for the purposes hereof.
5. Term. This Agreement shall commence upon the Effective Date and shall continue for a period of time of twelve (12) months and on each anniversary of the Effective Date shall be automatically renewed for an additional twelve-month period unless either Party shall have given written notice to the other Party sixty (60) calendar days prior to the end of the then current 12-month period (the “Term”). At the end of the Term in ordinary course or any earlier termination for Cause or Convenience (both as herein after defined), the Client shall immediately (i) make no further use of the Software, (ii) cause to be removed from all computers in its use or possession all machine readable copies of the Software, (iii) return to Controltec all materials previously supplied by Controltec and all copies made, or permitted to be made, thereof by Client, whether in machine readable form or not, and Controltec shall have no obligation to provide Maintenance Services nor provide Service Usage.
- 6) Early Termination. This Agreement may be terminated early by Client either for Cause or Convenience (both as defined below) and may only be early terminated by Controltec for Cause (as defined below).
- a) “Cause” shall mean the failure on the part of a Party to fulfill its obligations hereunder, without limitation including the failure by Client to timely pay any monies due hereunder to Controltec, provided that, other than as set forth in Paragraph 3 hereof, the Party providing Cause shall be given a period of thirty (30) calendar days to cure such breach after a notice from the Party alleging such breach.
 - b) “Convenience” shall mean a decision by Client, conveyed to Controltec by a notice, to terminate this Agreement for any reason other than Cause on the part of Controltec.
 - c) In the event of a termination hereof by Client for Cause on the part of Controltec, Client shall, in addition to its other obligations hereunder, have no obligation to pay any further monies otherwise due hereunder to Controltec and Controltec shall retain all monies then previously paid to it by Client.
 - d) In the event of a termination hereof by Client for Convenience and/or in the event of a termination hereof by Controltec for Cause on the part of the Client, Client shall, in addition to its other obligations hereunder, immediately pay to Controltec any balance amount of the Project Start Fee, the Deployment Complete Fee and the System Complete Fee then not previously paid to Controltec, and any due but unpaid amounts of the System Usage Fee or Service Usage Fee and Maintenance Fee and any unpaid balance of any previously authorized amount of Extra Services and Additional Software.
7. Obligations Surviving Termination. The Parties agree that the provisions hereof, and the responsibilities, obligations and rights set forth herein, in paragraphs hereof numbered 3(b), 5, 6(c), 6(d), 10 (only with regard to events during the Term), 12, 17, 18, 19, 21 and 22 hereof shall survive any termination of this Agreement.

8. Payment. Client agrees to pay Controltec the Project Start Fee, the Deployment Complete Fee and the System Complete Fee in the amounts and upon the timing set forth in Exhibit A hereto. Subsequent to the first twelve (12) months of the Term, Client agrees to pay the amount of the Maintenance Fee and the Service Usage Fee or the System Usage Fee, and Controltec may alter the amount of the Service Usage Fee, System Usage Fee, Maintenance Fee and Hourly Rate by providing Client a written notice with a period of effect of not less than sixty (60) calendar days. All invoices are due Net 30 days. Client shall also pay the amount authorized in writing by the Client for any Extra Services or Additional Software.
9. Independent Contractor. During the Term hereof, Controltec shall be an independent contractor and not an employee, servant, or agent of the Client. Controltec shall have exclusive responsibility for the means, manner, and methods of performing its obligations under this Agreement. Nothing in this Agreement shall be construed to create an employer/employee relationship, nor a joint venture, between Controltec and Client.
10. Indemnification. Each Party (the "Indemnitor") shall indemnify and hold the other (the "Indemnitee") harmless from any loss, expense, liability, claim, demand, or judgment, including reasonable costs of attorneys (collectively, "Losses"), arising or resulting from third party claims or actions which result from the negligence, misconduct or breach of this Agreement by Indemnitor, provided that the Indemnitor's obligations under this Section 10 will be reduced to the extent that any such Losses result from the negligence, misconduct or breach of this Agreement by Indemnitee. OTHER THAN DAMAGES WHICH RESULT FROM A BREACH OF SECTION 12 OR THE FIRST SENTENCE OF SECTION 2, IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL, EXEMPLARY OR INDIRECT DAMAGES, OR EXPENSES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR OTHER ECONOMIC LOSS) EVEN IF SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF THE OCCURRENCE OF SUCH DAMAGES. THE LIABILITY (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE) OF EACH PARTY TO THE OTHER OR TO ANY THIRD-PARTY CONCERNING PERFORMANCE OR NON-PERFORMANCE OR OTHERWISE RELATED TO THIS AGREEMENT SHALL IN THE AGGREGATE BE LIMITED TO THE DIRECT AND ACTUAL DAMAGES. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THERE ARE NO OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, IN FACT, ARISING BY OPERATION OF LAW OR OTHERWISE, AND THE PARTIES AGREE SPECIFICALLY THAT THERE ARE NO IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR OF MERCHANTABILITY OF THE SOFTWARE. CONTROLTEC'S MAXIMUM LIABILITY TO CLIENT UNDER THIS AGREEMENT WILL NOT EXCEED AN AMOUNT EQUAL TO THE FEES RECEIVED BY CONTROLTEC FROM CLIENT DURING THE SIX MONTH PERIOD PRIOR TO THE EVENT WHICH CREATES SUCH LIABILITY.
11. Force Majeure. Notwithstanding any other provision of this Agreement, no Party shall be liable to the other for any loss, delay, claims or damages which may be suffered arising out of any delay or interruption of service caused by events beyond a Party's control including, but not limited to, acts of God, losses or damages resulting from the loss of data, non-deliveries, or

service interruptions, perils of the air, weather conditions, acts of public enemies, war, strikes, civil commotion, the effects of action of terrorists, or acts of public authorities with actual or apparent authority, or the like.

12. Confidentiality. The Parties shall observe and require the observance of applicable federal and state requirements relating to confidentiality of Client's client records and information and agree not to allow examination of records or disclose information, except as may be necessary to assure that the purposes of this Agreement will be effectuated.

Client agrees on its behalf and on behalf of its employees, consultants, representatives and entities or individuals that use the Software or services on its behalf or with its approval (hereinafter "Recipients") that all information communicated to Recipients with respect to software and business affairs of Controltec, and any other information gained by Recipients by reason of association with Controltec, or access to the Software or service (whether or not that information was directly, indirectly, intentionally or unintentionally communicated) is the confidential information of Controltec.

Notwithstanding other provisions of this Agreement, Client shall indemnify Controltec from and against any loss, specifically including loss of profits that it may suffer or incur, in any way, as a direct or indirect result of any unauthorized disclosure or use of such confidential information.

13. Statutory Compliance. The Parties shall perform their obligation hereunder in accordance with all applicable federal, state and local laws, rules and regulations, including without limitation any applicable provisions of the Labor Law of the State of California. All statutory provisions applicable to this Agreement are hereby incorporated by reference. By executing this Agreement, Controltec certifies that it is not suspended or barred from receiving federal funds.
14. Assignment. Neither Party shall assign, transfer, convey, sublet, or otherwise dispose of this Agreement or any of its right, title, or interest therein, without the prior written consent of the other Party, which consent shall not unreasonably be withheld, provided that Controltec shall be free to assign this Agreement in the event of its experiencing any change of control (including by reason of sale of equity interests, acquisition, merger or sale of some part of its assets).
15. Amendments. No waiver, modification, or amendment of this Agreement or any part thereof shall be valid unless in writing and duly executed by an authorized representative of each Party. A waiver of any breach hereof shall not prevent forfeiture for any succeeding breach.
16. Attorney Fees and Costs. If any action, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing Party will be entitled to reasonable attorneys' fees, which may be set by arbitration or by a court of competent jurisdiction, in addition to any other relief to which that Party may be entitled.
17. Notices. All notices and other communications hereunder (each a "Notice") shall be in writing, except as herein specifically provided, and shall be deemed to have been given, and any period of effect shall commence five (5) business days after being sent to the other Party at the addresses first set forth above (i) by first class, registered or certified mail, postage prepaid;

(ii) by recognized overnight courier; or (iii) by e-mail provided that such e-mail shall be confirmed within one (1) business day by first class, registered or certified mail, return receipt requested, postage prepaid, or recognized overnight courier. A Party may change addresses by serving a Notice hereunder on the other Party.

18. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of California, without regard to conflicts of laws principles.
19. Section Headings. Section headings are for convenience only and shall not be considered a part of the terms and conditions of this Agreement.
20. Waiver. Any waiver by either Party of the obligations of the other Party shall be deemed to be a specific, limited waiver, and shall not be deemed to be a waiver of the subsequent occurrence of the same, similar, or any other particular set of circumstances.
21. PCI-DSS Compliance. Controltec represents and warrants that it is not subject to the compliance standards of the Payment Card Industry Data Security Standard ("PCI DSS") in connection with the activities contemplated by this Agreement. Controltec does not process, store, obtain or transmit credit card information and instead utilizes third parties for such activities who themselves are responsible for being in compliance with PCI DSS.
22. Agreement After Negotiation. This Agreement has been made after negotiation between the Parties, each of which is of substance and extensive business experience, and each of which has had the opportunity of consulting counsel to the full extent it deems necessary and appropriate prior to the execution of this Agreement.
23. Entire Agreement and Severability. This Agreement constitutes the entire agreement between the Parties, and represents the complete and entire understanding of the Parties with respect to the subject matter hereof, and supersedes any other agreement or understanding between the Parties, whether written or oral. In the event that any term or provision of this instrument is held by a court of competent jurisdiction to be unenforceable, then the remaining provisions of this instrument and the agreement which it evidences shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound hereby, and in consideration of the covenants and agreements contained herein, do hereby execute this Agreement effective as of the Effective Date, with each Party warranting their ability to enter into this Agreement for the person or entity herein named as a Party hereto.

CONTROLTEC, INC.

DAVIS JOINT UNIFIED SCHOOL DISTRICT

By: 

By: _____

Name: Norbert Haupt

Name: _____

Title: President

Title: _____

Date: December 20, 2016

Date: _____

Exhibit A – Copy of Proposal



**CenterTrack® Proposal for
Davis Joint Unified School District
Proposal Number 1823 – REV B
December 19, 2016**

PROPOSAL OVERVIEW

Controltec is pleased to offer this proposal for CenterTrack, our center-based, childcare management software system. Please review the various sections of this proposal for detailed information about program functionality and deployment matters.

CenterTrack is accessed through standard Internet browsers on workstations running Microsoft Windows up to version 10 or Apple iOS up to version 9.

Any features or enhancements that are not specifically listed in this proposal are not included in the cost herein and will require subsequent proposals, if requested.

OPTIONAL MODULES

None

LICENSE FEES

CenterTrack deployments are licensed according to the number of active children served or number of users accessing the system. The licensing fees consist of an initial one-time license fee and monthly usage and maintenance fees, which are billed annually, in advance.

This proposal is based on two (2) licensed users. If your user count exceeds two (2) licensed users, your invoices may be adjusted proportionately if applicable.

HOSTING DETAILS

CenterTrack is accessed via a secure Internet connection. Controltec, Inc. will host the website and database on its servers, which are housed in a discrete, co-location Internet hosting facility.

The system will be hosted at a co-location facility in San Diego, California. The facility has three redundant fiber paths for its Internet service. The first circuit is their primary and second circuit is used as the failover. The facility provides a physically secure (biometric scanners, key FOBs, access list, check-in/check-out list, and photo ID required), climate controlled facility with redundant power, which provides emergency failover to protect all systems. This includes backup power by diesel generators in the event of a complete blackout of the local power grid.



We have a server standing by to take over both web and database services in the event of a single server failure and our database server is set up in a redundant mode to provide standby data recovery of no more than ten minutes of data loss.

In the event of a catastrophic loss of the primary server, the backup system will be operating live within no more than 24 hours. In very unlikely the event of a catastrophic loss of the entire data center, the backup system will be operating out of Controltec's internal data center temporarily within 72 hours until a new primary datacenter is established.

Controltec uses the Microsoft SQL Server as its database. Controltec reserves the right to upgrade to the latest versions of the SQL Server as Microsoft makes them available. Upgrades will not affect customer operations.

Our data backup strategy includes backing up data onto a backup/standby server (databases capture data every ten minutes) as well as a daily tape backup and quarterly tape archive. All data is carried offsite weekly on backup media in addition to the ongoing system backup strategy.

Controltec's external systems are self-monitoring. Whenever any failure is detected, an engineer is alerted via a telephone call and will either deal with the emergency directly or call the responsible person. This monitoring takes place on a continual basis.

OWNERSHIP OF DATA

All data in your agency's database is entered and owned by your agency. Controltec never makes changes to the data, unless specifically requested in writing by your agency in the course of normal support operations. At the end of the contract, your agency can request a backup copy of the database which will contain all agency data as of the end of the contract. Such backup will be delivered through a secure transmission process or on separate media.

SECURITY, UPDATES AND PATCHES

Controltec engineers maintain all of our hosted systems. The Cisco ASA 5520 firewall is used to protect all of Controltec's web and database servers and internal networks. Operating systems are monitored and patched when necessary, as instructed by Microsoft. The firewall is updated as needed.

All of Controltec's hosted systems are running under digital certificates by Symantec. The CenterTrack system is protected by a 2048 bit RSA secure certificate, the cost of which is covered if the site is published under a Controltec secured domain name. If an agency requires a different domain name then a unique digital certificate will need to be purchased, which will be billed to the agency. There is an annual renewal fee of approximately \$395, which will be billed to the agency to cover the renewal cost for the digital certificate.

SERVICES – DEPLOYMENT

Project Management

Project Management includes overseeing the system deployment and coordinating all customer communications. Project management activities will be performed remotely, via telephone or webinar connections. Our project manager will meet with your management staff and IT departments to establish a detailed plan to manage the transition from your existing processes to CenterTrack, creating what will be known as your Timetable. This meeting will include a detailed process review and discussions of any hardware or software requirements that may be necessary. The project manager will create a schedule of all transition events and define the items for the CenterTrack deployment. During this phase of deployment, your agency needs to have key people accessible for discussion with Controltec's project manager and engineers. Some of this work may be done in onsite visits, some in conference calls or via email. In the event that more than eight (8) hours of Project Management time are required, through no fault of Controltec, then additional charges may be incurred, if authorized in advance by the agency.

System Installation

Controltec configures the servers and installs the complete CenterTrack system on its servers. Once the database and application have been installed, they are thoroughly tested to confirm proper operation. The date upon which this action is completed is known as the 'Deployment Complete Date.'

System Checkout

The Controltec project manager tests the CenterTrack system for data integrity. This will normally include an on-line examination of the data by both the Controltec project manager and a representative of your agency.

STAFF TRAINING

Training Overview

There are eleven and one half (11.5) hours of training, which will be provided remotely, via telephone or webinar connections. Training typically consists of classroom and hands-on training. For each session, we spend the beginning with overview classroom training that all users participate in. During the second session, the users return to their workstations and the Controltec trainer assists individuals and small groups with software methodology, use and general features. This is repeated for subsequent sessions with different subject matter. The date upon which Training is completed is known as the 'System Complete Date'.



DATA MIGRATION ANALYSIS

From time to time, agencies request that Controltec electronically import data they have in their current childcare systems into CenterTrack, or export data from CenterTrack to third-party systems. Before an accurate assessment of the costs involved to import data from or to CenterTrack can be provided, Controltec engineers must examine the data structures of the system that the data will import from or export to. If your agency requests these services, this examination is essential and will result in costs to your agency, regardless of the outcome achieved.

Once the examination has been completed, our engineers review the results with your project manager to identify which data elements can be imported or exported. If you elect to move forward with the data import or export, Controltec will issue a service order, which will list the additional cost to complete these services. If you elect not to proceed, then your agency should make arrangements to manually enter the required data into CenterTrack and no further Data Exchange Service charges are incurred.

This proposal does not include any Data Analysis Services.

CUSTOMIZATIONS

Also, from time to time, agencies request that Controltec make customizations to CenterTrack. Customizations include modifications to reports, documents, letters, notices and any other minor tasks that an agency might want included in CenterTrack.

This proposal does not include any system customizations. If any system customizations are requested later then they will need to be detailed in subsequent proposals and will incur additional costs.

INVESTMENT SUMMARY

<i>Software (one-time license cost)</i>		
License Fee		\$1,030.00
Incentive Discount - Previous CT User		-\$500.00
Optional Modules		N/A
Total for Software		\$530.00
<i>Services</i>		
Deployment		\$1,448.00
Training		\$1,426.00
Transition Support		N/A
Data Migration		N/A
Customizations		N/A
Total for Services		\$2,874.00
<i>Usage Fees</i>		
	Monthly	Annual
Maintenance Fee	\$59.00	\$708.00
Service Usage Fee	\$59.00	\$708.00
Total Fees	\$118.00	\$1,416.00



TERMS

One-time Fee (first year contract)	\$4,820.00
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One-time Fee Payment Schedule.		
Project Start Fee <i>50% of One-time Fee</i>	\$2,410.00	Upon execution of contract
Deployment Complete Fee <i>25% of One-time Fee</i>	\$1,205.00	Due and payable upon Deployment Complete Date or in the event of a delay by Client to the Timetable the earlier occurrence of forty-five (45) days subsequent to Project Start.
System Complete Fee <i>25% of One-time Fee</i>	\$1,205.00	Due and payable upon the System Complete Date or in the event of a delay by Client to the Timetable the earlier occurrence of sixty (60) days subsequent to Project Start.
Total First Year Cost	\$4,820.00	

MAINTENANCE PLANS

Maintenance plans enable Controltec to provide telephone and email support, as well as make mandated program enhancements and corrections. For this reason, we require all agencies to maintain an active support agreement.

OPTIONS

Training and Transition Support

It is difficult to predict how much total training or transition support an agency may require. Additional training or transition support can be purchased at anytime at the prevailing rates, plus actual travel expenses.

Additional Services and Customizations

From time to time, our clients request custom features, reports and interfaces, which Controltec refers to as Extra Services. Controltec can respond to such requests. Upon receipt of such a request we will produce a detailed quotation specifying deliverables as well as associated costs. The prevailing hourly rate for extra services or customizations of any kind is \$156.00 per hour.

EXCLUSIONS

The following items are not included in this proposal and if required, must be obtained by the client:

- Local telephone charges to the agency. Our support team uses online meetings and webinars to train, troubleshoot and sometimes configure and install. The call-in numbers for online support and webinars may be, in some circumstances, long-distance numbers for local agencies. Controltec tries to use 800 numbers when possible to support such calls, but may not always be able to do so. Under no circumstances can Controltec be responsible for any telephone charges to local agencies by their phone companies. We advise our agencies to check their long distance plans carefully before participating in online meetings or webinars.
- Internet connections
- Network cabling
- Any hardware
- Software support or license fees charged by any third party vendors that interface with CenterTrack
- Any third party software (The only plug in used by CenterTrack is the standard Adobe reader for display of reports and forms).

VALIDITY

This proposal is valid until December 31, 2016