MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF ORANGE AND PARTICIPANTS FOR USE OF COUNTYWIDE MASS NOTIFICATION SYSTEM

This Memorandum of Understanding, hereinafter referred to as "MOU," dated_____, which date is stated for purposes of reference only, is entered into by and between the County of Orange, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and the undersigned municipalities, public universities and water agencies responsible for protecting a resident population and maintaining a dedicated public safety answering point (PSAP) within the County of Orange, hereinafter referred to individually as "PARTICIPANT" or collectively as "PARTICIPANTS."

This MOU is intended to establish governance and terms of use for a Countywide Public Mass Notification System.

RECITALS

WHEREAS, COUNTY is sponsoring a Countywide Public Mass Notification System ("System") for the primary intent of providing timely communication to the public during times of emergency; and

WHEREAS, the County is making use of the System available to all cities and agencies within the County of Orange who have the responsibility for protecting a resident population and maintaining a dedicated public safety answering point (PSAP); and

WHEREAS, COUNTY entered into Orange County Agreement No. N1000009880 ("Agreement") with NTI Group, Inc. (now Blackboard Connect, Inc.), for the provision of Public Mass Notification System Services, on or about May 6, 2008 and subsequently amended, attached hereto as Exhibit A, to disseminate critical, time-sensitive emergency information to COUNTY's citizens and businesses through phone and e-mail devices for emergency notification purposes; and

WHEREAS, Blackboard Connect, Inc. agrees to provide to PARTICIPANTS the services agreed to by Blackboard Connect, Inc. and COUNTY as contained under the Agreement in exchange for abiding by the terms set forth in this MOU; and

WHEREAS, PARTICIPANTS agree to uphold the same terms and conditions of the Agreement, to use the System in compliance with all usage agreements identified and incorporated herein as Exhibit A (Orange County Agreement No. N1000009880), Exhibit B (Countywide Public Mass Notification System Policy and Guideline) and Exhibit C (Nondisclosure Document), and the terms of this MOU to receive the benefits under the Agreement.

NOW, THEREFORE, the parties agree as follows:

I. Definitions:

"Agreement" shall refer to Orange County Agreement No. N1000009880 between COUNTY and Blackboard Connect, Inc. The Agreement is attached to this MOU as Exhibit A.

"Countywide" shall mean all geographic locations in Orange County, California.

"Contact information" shall mean PARTICIPANT and public contact data stored in the System for the purpose of disseminating communication in accordance with this MOU and its Exhibits.

"Emergency" shall include, but not be limited to, instances of fire, flood, storm, epidemic, riots, or disease that threaten the safety and welfare of the citizens and property located within the boundaries of the COUNTY and PARTICIPANTS' respective jurisdictions.

"Emergency information" shall mean information relevant to the safety and welfare of recipients in the event of an Emergency. Such information shall include but not be limited to instructions and directions to alleviate or avoid the impact of an emergency.

"Emergency notification situation" shall mean instances when emergency information is to be distributed through the System.

"Non-emergency information" shall refer to information that is not relevant to the safety and welfare of recipients, but has been deemed to be of significant importance to a PARTICIPANT's jurisdiction to justify the use of the System to distribute such information.

"Non-emergency notification situation" shall mean instances when a PARTICIPANT deems non-emergency information to be of significance to a PARTICIPANT'S jurisdiction and the PARTICIPANT uses the System to distribute such information.

"System" shall mean the Public Mass Notification System as provided by Blackboard Connect, Inc. to COUNTY under the Agreement. The System is designed to disseminate information by utilizing common communications, i.e. telephone and e-mail communications to citizens and businesses as permitted under the Agreement.

II. Hold Harmless: PARTICIPANT will defend, indemnify and save harmless COUNTY, its elected officials, officers, agents, employees, volunteers and those special districts and agencies which COUNTY's Board of Supervisors acts as the governing Board ("COUNTY INDEMNITIES") from and against any and all claims, demands, losses, damages, expenses or liabilities of any kind or nature which COUNTY, its officers,

agents, employees or volunteers may sustain or incur or which may be imposed upon them for injury to or death of persons, or damages to property as a result of, or arising out of the acts, errors or omissions of PARTICIPANT, its officers, agents, employees, subtenants, invitees, or licensees. COUNTY will defend, indemnify and save harmless PARTICIPANT, its officers, agents, employees and volunteers from and against any and all claims, demands, losses, damages, expenses or liabilities of any kind or nature which PARTICIPANT, its officers, agents, employees or volunteers may sustain or incur or which may be imposed upon them for injury to or death of persons, or damages to property as a result of, or arising out of the acts, errors or omissions of COUNTY, its officers, agents, employees, subtenants, invitees, or licensees.

III. **Term:** This MOU shall be in effect from July 1, 2013 and shall expire on June 30, 2014, unless COUNTY funding of the System becomes unavailable at which time PARTICIPANTS will be given six-month advance notice per the termination terms found in Paragraph IX. Termination, below.

IV. **Scope of Services:** PARTICIPANTS shall receive from Blackboard Connect, Inc. the same services provided by Blackboard Connect, Inc. to the COUNTY under the Agreement. COUNTY's involvement in this MOU is limited only to extending the availability of the terms and conditions of the Agreement to the PARTICIPANTS. PARTICIPANTS and Blackboard Connect, Inc. acknowledge and agree that any actions taken by Blackboard Connect, Inc. or any PARTICIPANT under the scope of the Agreement and this MOU are the responsibility of Blackboard Connect, Inc. and the respective PARTICIPANT.

V. **Use:** Use of the System and its data, including but not limited to contact information, is governed by the terms, conditions and restrictions set forth in the terms provided in Exhibit A, B and C. All PARTICIPANTS agree to the terms and conditions contained in Exhibits A, B, and C. COUNTY retains the right to update Exhibits A, B, and C as needed, in whole or in part, during the life of this MOU. Any and all revised Exhibits will be distributed to PARTICIPANTS within five business days of the revision date and shall be incorporated into this MOU. Such modifications to the Exhibits shall not be deemed an amendment for the purposes of Paragraph X. Amendments, below.

PARTICIPANT, including each of its agents, officers, employees, and representatives who are given access to the System, agrees to abide by the individual terms of each agreement and the additional conditions incorporated herein. Breach of use may result in individual user or PARTICIPANT access account termination.

The scope of services under the Agreement is limited to using the System to distribute business communication to PARTICIPANT inter-departmental resources and/or emergency information to the public in emergency notification situations.

PARTICIPANTS may arrange for the use of the System with Blackboard Connect, Inc. to distribute non-emergency information. However, any agreement reached between Blackboard Connect, Inc. and any PARTICIPANT for the use of the System for non-

emergency notification situations shall exist only between Blackboard Connect, Inc. and the PARTICIPANT. In accordance with Paragraph II. Hold Harmless, above, COUNTY shall be held harmless and indemnified by the PARTICIPANTS and Blackboard Connect, Inc. from any actions whatsoever arising from any PARTICIPANT's use of the System for non-emergency services.

All PARTICIPANTS have read and accept the terms and conditions found in COUNTY's "Countywide Public Mass Notification System Policy and Guideline (June 30, 2008)", attached hereto as Exhibit B.

VI. **Compensation:** All compensation owed by PARTICIPANTS to Blackboard Connect, Inc. shall be made between PARTICIPANTS and Blackboard Connect, Inc.

VII. **Notice:** Any notice or notices required or permitted to be given pursuant to this MOU shall be submitted in writing and delivered in person, via electronic mail or via United States mail as follows:

COUNTY:

County of Orange – Sheriff-Coroner Department
Emergency Management Bureau
Attn: Donna Boston / Emergency Management
2644 Santiago Canyon Road
Silverado, CA 92676

PARTICIPANTS: Each PARTICIPANT shall provide to COUNTY a contact person and notice information upon entering into this MOU.

Notice shall be considered tendered at the time it is received by the intended recipient.

VIII. **Confidentiality:** Each party agrees to maintain the confidentiality of all related records and information of the other party pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this MOU. All information and use of the System shall be in compliance with California Public Utilities Code section 2872.

IX. **Termination:** The COUNTY or any PARTICIPANT may terminate its participation in this MOU at any time for any reason whatsoever. If any PARTICIPANT chooses to terminate its participation in this MOU, the terminating PARTICIPANT shall provide written notification in accordance with Paragraph VII. Notice, above. Such notice shall be delivered to the COUNTY 30 days prior to the determined termination date. A terminating PARTICIPANT shall uphold the obligations contained in Paragraph II. Hold Harmless in its entirety and Paragraph VIII. Confidentiality, above. Upon termination, PARTICIPANT agrees to inform each PARTICIPANT user to stop using the System and to relinquish all System access, user accounts, passwords and non-PARTICIPANT data to COUNTY immediately. PARTICIPANT may choose to delete and/or export non-public PARTICIPANT (aka inter-departmental) owned contact information, as well as,

export resident provided contact information prior to termination. Resident provided contact information acquired through PARTICIPANT sources shall remain in the System and available to the County for regional or multi-jurisdictional notification use as needed.

Should COUNTY discontinue its funding for the System, which shall be grounds for COUNTY's termination of its participation, COUNTY shall give PARTICIPANTS six-month advance courtesy notice prior to terminating the Agreement. All other reasons for terminating by COUNTY shall be valid upon providing notice to the PARTICIPANTS. Upon termination by COUNTY, this MOU shall no longer be in effect.

Termination by a PARTICIPANT shall not be deemed an amendment to this MOU as defined in Paragraph X. Amendments, below.

X. **Amendments:** This MOU may be amended only by mutual written consent of the parties involved unless otherwise provided for in this MOU. The modifications shall have no force and effect unless such modifications are in writing and signed by an authorized representative of each party. Termination by a PARTICIPANT or adding a new PARTICIPANT to this MOU shall not be deemed an amendment.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Understanding to be executed by their duly authorized representatives as of the dates opposite the signatures.

COUNTY OF ORANGE

By: _____ Date: _____
Sandra Hutchens, Sheriff-Coroner
County of Orange

PARTICIPANT: _____

By: _____ Date: _____
Authorized Signature

_____
Print Name and Title