

NON-SUFFICIENT FUNDS DIVERSION SERVICE AGREEMENT

THIS AGREEMENT (hereafter Agreement) is made by and between the COUNTY of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and National Corrective Group, Inc., a Delaware corporation, doing business as CorrectiveSolutions, with principal offices located in San Clemente, (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the administrative services specified herein.

Recitals

- (i) The District Attorney/COUNTY and CONTRACTOR have expressed interest in entering into this Agreement on the terms contained herein, and such terms shall remain valid and in effect for thirty (30) days from the date of execution by CONTRACTOR ("Courtesy Period") and will expire after the Courtesy Period if the Agreement is not jointly executed by the parties within the Courtesy Period.
- (ii) The principal business activity of CONTRACTOR is the provision of educational seminars, administrative support services to State and Judicial District prosecutors' offices that have adopted a pre-trial misdemeanor bad check diversion program ("Diversion Program"). These programs typically allow alleged bad check offenders (the "Participants") to avoid the prospect of criminal prosecution, provided the Participant attends an educational seminar ("Seminar") mandated by the prosecutorial authority addressing the causes and the prevention of bad check writing, in addition, each Participant must pay a mandatory fee for the Seminar and full restitution to the victim of the bad check. For purposes of this Agreement a check shall be defined as any physical or electronic account draft or as per the Check Clearing for 21st Century Act section 3(6): a draft, payable on demand and drawn on or payable through or at an office of a bank, whether or not negotiable, that is handled for forward collection or return, including a substitute check and a travelers check ("Check").
- (iii) CONTRACTOR has extensive experience providing administrative support, and Seminars for Diversion Programs. More specifically, CONTRACTOR has developed proprietary Seminar materials for conducting Seminars, including extensive experience in staffing Diversion Program Seminars, and has acquired substantial knowledge with respect to the administrative and record management procedures necessary to operate an effective Diversion Program.
- (iv) The District Attorney/COUNTY desires to provide a Diversion Program for Participants, consistent with and pursuant to Section 801 of The Financial Services Regulatory Relief Act of 2006, 15 U.S.C. § 1692p ("The Act"), and any applicable state law and desires to retain CONTRACTOR as a duly authorized agent to provide administrative support services, to staff and to operate its District Attorney/COUNTY Diversion Program Seminars, and to provide administrative support services as reasonably required by the District Attorney/COUNTY in conducting the Diversion Program. To the extent that CONTRACTOR's employees have any interaction with Participants other than with respect to Seminar-related activities, CONTRACTOR employees shall exercise only ministerial, non-discretionary duties, at all times subject to the management and control of the District Attorney/COUNTY. CONTRACTOR desires to perform these services for the District Attorney/COUNTY as specified herein.

NOW, THEREFORE, in consideration of mutual covenants and conditions contained herein, the parties agree as follows:

1. DESIGNATED REPRESENTATIVE. The District Attorney Assistant Director, Marnie B. Pinsker or successor, at (805) 568-2304 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Kristy Silguero, CONTRACTOR Vice President is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid or otherwise delivered as follows:

TO COUNTY: Attn: Marnie Pinsker, 1112 Santa Barbara Street, Santa Barbara, California 93101

TO CONTRACTOR: Attn: Kristy Silguero, 180 Avenida La Pata, Suite 200, San Clemente, CA 92673

or such address or to such person that the parties may from time to time designate. Notices and consents under this section sent by mail shall be deemed to be received five (5) days following their deposit in the U.S. Mail.

3. **SCOPE OF SERVICES.** CONTRACTOR agrees to provide services to COUNTY in accordance with **Exhibit B** attached hereto and incorporated herein by reference. In consideration of the mutual promises, conditions and covenants herein contained, COUNTY engages CONTRACTOR as an independent CONTRACTOR to furnish administrative services supporting the COUNTY's Non-Sufficient funds diversion program and its related check recovery services as a direct representative of COUNTY, and to help administer the COUNTY's legally authorized diversion program and restitution recovery procedures in accordance with State of California Penal Code 476(a). The District Attorney has determined that no COUNTY funds are required to operate and maintain the Diversion Program and is duly authorized to create a Diversion Program per California Penal Code 1001.60 and as such no adoption of a resolution is required by the board of supervisors to declare that there are sufficient funds available to fund the program.

4. **TERM.** CONTRACTOR shall commence performance on October 27, 2009 for a period of five (5) years, and unless sooner terminated as provided herein, shall renew in successive one-year increments at the end of the initial five year term.

5. **COMPENSATION OF COUNTY.** COUNTY shall be paid in accordance with the terms of **Exhibit A** attached hereto and incorporated herein by reference. Unless otherwise specified on **Exhibit A**, payment to COUNTY shall be made on a monthly basis.

6. **INDEPENDENT CONTRACTOR.** CONTRACTOR shall perform all of its administrative services under this Agreement as an independent CONTRACTOR and not as an employee of COUNTY. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure.

7. **STANDARD OF PERFORMANCE.** CONTRACTOR represents that it has the skills, expertise and licenses/permits necessary to perform the administrative services required under this Agreement in accordance with the terms of **Exhibit B** attached hereto and incorporated herein by reference. Accordingly, CONTRACTOR shall perform all such administrative services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged.

8. **TAXES.** COUNTY shall not be responsible for paying any taxes on CONTRACTOR'S behalf, and should COUNTY be required to do so by state, federal or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance and/or workers' compensation insurance.

9. **CONFLICT OF INTEREST.** CONTRACTOR covenants that CONTRACTOR presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the administrative services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having such interest shall be employed by CONTRACTOR.

10. **RESPONSIBILITIES OF COUNTY.** COUNTY shall provide all information, determinations, and judgments reasonably necessary by CONTRACTOR in performing the administrative services provided herein in accordance with the terms of **Exhibit C** attached hereto and incorporated herein by reference.

11. **OWNERSHIP OF DOCUMENTS.** COUNTY shall be the owner of the items in accordance with **Exhibit D** attached hereto and incorporated herein by reference.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of COUNTY except CONTRACTOR educational materials already utilized or may be utilized in the COUNTY. COUNTY shall have the unrestricted authority to publish, disclose, distribute and otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement so long as the Agreement remains in effect and the CONTRACTOR is promptly notified of any materials being requested or shared with another practitioner of the same profession in which CONTRACTOR is engaged

12. **RECORDS, AUDIT AND REVIEW.** CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon giving reasonable notice.

If this Agreement exceeds Ten Thousand and No/100 Dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the Auditor General for a period of three (3) years after final payment under contract (Government Code Section 10532). If in the reasonable judgment of COUNTY it is necessary to determine the services completed by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy, which CONTRACTOR may have in law or equity.

13. **INDEMNIFICATION AND INSURANCE.** CONTRACTOR and COUNTY agree to defend, indemnify and save each other harmless as set forth in **Exhibit E**. CONTRACTOR agrees to procure and maintain insurance in accordance with the provisions of **Exhibit E** attached hereto and incorporated herein by reference. CONTRACTOR shall provide evidence of insurance prior to contract execution.

14. **NON-DISCRIMINATION.** COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

15. **ASSIGNMENT.** CONTRACTOR shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute ground for termination of this Agreement.

16. **CHANGES.** Any matters of this Agreement herein contained may be modified by written agreement of both parties, effective only upon approval of the Board of Supervisors of the County of Santa Barbara, without the modifications in any way affecting the remainder.

17. **TERMINATION.** CONTRACTOR agrees to Termination with COUNTY in accordance with **Exhibit F** attached hereto and incorporated herein by reference.

18. **SECTION HEADINGS.** The headings of the several sections and any table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

19. **SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

20. **REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given herein or now or hereafter existing at law or in equity or otherwise.

21. **TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement and each covenant and term is a condition herein.

22. **NO WAIVER OF DEFAULT.** No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event or default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

23. **ENTIRE AGREEMENT.** In conjunction with the matters considered herein, this Agreement constitutes the entire understanding and agreement of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded or changed by any oral agreement, course of conduct, waiver or estoppel.

24. **SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties set forth in this Agreement by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and insure to the benefit of such party, its successors and assigns.

25. **COMPLIANCE WITH LAW.** CONTRACTOR shall, at his sole cost and expense, comply with all COUNTY, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The final judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY be a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

26. **CALIFORNIA LAW.** This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

27. **EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts, and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

28. **AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of all entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and /or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

29. PRECEDENCE. In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

AGREED and ACCEPTED this _____ day of _____, 20_____.

COUNTY OF SANTA BARBARA

By: _____
Chair, Board of Supervisors

Sig
Her

ATTEST:

Clerk of the Board

By: _____
Deputy

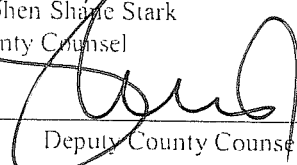
CONTRACTOR

Michael Schreck, President
National Corrective Group, Inc.

By: _____


APPROVED AS TO FORM:

Stephen Shane Stark
County Counsel

By: _____

Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

Robert W. Geis, C.P.A.
Auditor-Controller

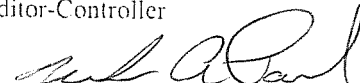
By: _____

Deputy

EXHIBIT A

COUNTY COMPENSATION

The COUNTY shall receive 50% of the Administrative Fees as described more fully in Schedule 1. These percentages notwithstanding, the District Attorney shall receive monthly revenues based upon the administrative fee revenues of no less than \$4,800, if greater than \$4,800.00 shall be disbursed to COUNTY each month with a detail voucher of each NSF check writer's payment for each victim/merchant. This provision shall be subject to renegotiation between the parties prior to the renewal of this contract.

EXHIBIT B:
STANDARD OF PERFORMANCE

In fulfillment of this agreement, CONTRACTOR AGREES TO:

1. Provide educational seminars and administrative support services for the District Attorney's pre-trial misdemeanor bad check diversion program ("Diversion Program"). This Diversion Program typically allow alleged bad check offenders ("Participants") to avoid the prospect of criminal prosecution provided they attend an educational seminar mandated by the District Attorney/COUNTY that addresses the causes and the prevention of bad check writing, in addition, each Participant must pay a mandatory fee for the Seminar and full restitution to the victim of the bad check. For purposes of this Agreement a check shall be defined as any physical or electronic account draft or as per the Check Clearing for 21st Century Act section 3(6): a draft, payable on demand and drawn on or payable through or at an office of a bank, whether or not negotiable, that is handled for forward collection or return, including a substitute check and a travelers check ("Check").
2. COUNTY and CONTRACTOR acknowledge that the Diversion Program will be operated under the District Attorney's/COUNTY's name, authority and control. The District Attorney has determined that no COUNTY funds are required to operate and maintain the Diversion Program and is duly authorized to create a Diversion Program per California Penal Code 1001.60 and as such no adoption of a resolution is required by the board of supervisors to declare that there are sufficient funds available to fund the program. It is specifically understood that:
 - a) the District Attorney/COUNTY retains full prosecutorial discretion and does not delegate to CONTRACTOR any aspect of the exercise of prosecutorial discretion and the District Attorney/COUNTY has deemed the Diversion Program to be in the best interest of its jurisdiction and in compliance with any applicable state statutory or common law and in compliance with The Act;
 - b) the content and frequency of the Seminars are to be approved by the District Attorney/COUNTY prior to the commencement of the Seminars;
 - c) prerequisites for participation in the Diversion Program, including any requirement to pay full restitution to the victim, shall be established by District Attorney/COUNTY and not by CONTRACTOR. The District Attorney/COUNTY shall determine if probable cause of a bad check violation exists under state penal law ("Bad Check Violation") and that contact with the alleged offender for purposes of participation in the Diversion Program is appropriate and consistent with The Act, as so req;
 - d) COUNTY retains the authority to contractually set or modify the Diversion Seminar fees and terms of payment from the Participants;
 - e) the format, content, and frequency of any oral or written communication with Participants concerning the payment of restitution or Diversion Seminar Fees is to be approved in advance by COUNTY, along with any future changes of material consequence to the communications materials;
 - f) the mailing of all written communications to Participants concerning the payment of restitution or Diversion Seminar Fees is to be approved by the District Attorney/COUNTY prior to the mailing, and any such written communication will be either generated or mailed by District Attorney/COUNTY personnel, by a mailing service or similar clerical service, or fulfilled by CONTRACTOR under its assigned administrative responsibilities per this Agreement; and

- g) the mailing address to which Participants are directed to respond will be the District Attorney's/COUNTY'S mailing address and/or a post office box held in the District Attorney's name.
3. CONTRACTOR will provide qualified instructors to conduct all Diversion Program Seminars, provide its proprietary Seminar materials to Participants, lease the required facilities to conduct the Seminars, monitor the attendance at the Seminars, and communicate directly with Seminar Participants regarding scheduling, attendance, and related administrative details. Seminars shall be scheduled as determined effective and held in convenient locations both in North and South Santa Barbara County. Instructors will typically hold advance degrees in a counseling related field (e.g. psychology or social work). CONTRACTOR will continue to develop and refine its seminar curriculum and educational materials, and will conduct ongoing training and evaluation of all instructors. The seminar is designed to remove many of the behavioral rationalizations surrounding the writing of bad checks, as well as focus on deficiencies in the areas of personal finance, communication, and stress management. Seminar sizes will average from 20-30 Participants based on Participant and instructor scheduling needs. An CONTRACTOR "Checks and Balances" personal study program (or equivalent future program) may also be utilized in lieu of a live Seminars, under certain circumstances (e.g. if the Participant lives outside a reasonable distance from the Seminar site).
 4. CONTRACTOR will also provide COUNTY with *pro forma* administrative forms and proposed procedural guidelines for the operation of the Diversion Program, which are to be reviewed, modified and approved by the COUNTY. CONTRACTOR will make its administrative personnel available to assist COUNTY in developing the administrative procedures to be followed by CONTRACTOR for the clerical and accounting functions of the Diversion Program, including written communications to Participants, which may be updated from time to time by CONTRACTOR for administrative efficiencies, the mechanics of mail sorting, depositing and accounting for Diversion Program Fees and restitution payments from Participants, disbursement of restitution payments to victims and financial reporting. CONTRACTOR shall provide clerical personnel for administrative, accounting and reporting aspects of the Diversion Program, subject at all times to the managerial authority of the COUNTY, including:
 - a) Conduct mailings and related collection efforts to the NSF check writers within the authority of the State of California Penal code 476(a),
 - b) Open and sort correspondence related to the Diversion Program,
 - c) Verify that NSF checks received are in compliance within the authority of the State of California Penal Code 476(a),
 - d) Process payments received for restitution to the victims, as well as administrative fees for NSF recover services and Diversion Seminar fees, promptly depositing restitution payments and fees in a federally insured account to be held in trust for COUNTY,
 - e) Keep current daily the NSF check writers' account balances with any new NSF check entries and payments to enable the generation of reports detailing the compliance and the disposition status on each Participant's case,
 - f) Disburse recovered funds monthly to the victims with a detail voucher of each NSF check writers' payment by NSF check writer.
 - g) Prepare monthly reports, which shall provide a summary of transactions and Diversion Program activity for the period, and other reports as requested by COUNTY.
 - h) Maintain physical files, computer files, and facilities required for performance under this Agreement, and provide the necessary supplies and system access to enable COUNTY to operate the Diversion Program.
 - i) As direct representative of COUNTY, maintain a businesslike relationship with the victims.

5. CONTRACTOR shall promote the availability of the NSF program within COUNTY's legal jurisdiction in an on-going public awareness program, to include regular dissemination of press releases and/or public service announcements to various local media, working directly with local Chambers of Commerce and other Merchant groups including presentations and training seminars on proper check acceptance procedures, etc. CONTRACTOR will provide COUNTY with semi-annually public awareness efforts and at COUNTY's request, conduct specific local merchant presentations.
6. Provide printed materials, crime reports and special guidelines for distribution to victims enrolling in the NSF Program. Provide victims with proper training of bad check recognition and the programs' legal requirements.
7. Deliver to COUNTY the files of non-responding and delinquent NSF check writers who meet COUNTY's prosecution guidelines, with accompanying bank records, after notification efforts have failed for possible criminal prosecution.
8. **Confidentiality.** CONTRACTOR acknowledges and agrees to implement reasonable safeguards to protect the confidentiality of information obtained in the course of the Diversion Program, including the identity and personal information of Participants, the identity of persons who file bad check crime reports with COUNTY, and the operations of the COUNTY.

SCHEDULE 1

- A. **RESTITUTION:** The victim's total loss associated with the face value of all bad checks (and other worthless negotiable instruments: e.g.; electronic account draft, etc.), plus a bank charge up to \$15.00 as per California Penal Code Section 1001.65(c).
- B. **ADMINISTRATIVE FEE:** The amount of the fee shall not exceed \$50.00 per check authorized pursuant to California Penal Code Section 1001.65(a). These fees shall be utilized in offsetting Diversion Program administrative expenses and paid in accordance with the Payment Disbursement Schedule below.
- C. **DIVERSION SEMINAR FEE:** The Diversion Program shall require eligible Participants to pay a \$165 Diversion Seminar Fee ("Fee") for the current contract year of the Agreement, with a 4% annual increase thereafter (rounded to the nearest dollar) on each subsequent Agreement anniversary. This Fee includes the opportunity to attend the Seminar or to complete a Personal Study Program where appropriate (which Seminar/Personal Study Program times, dates, and curriculum may be updated from time to time by CONTRACTOR to better serve Participants and for administrative efficiencies).
- D. **CONVENIENCE FEES:** Participants utilizing a method of payment outlined in Exhibit C, Section 5 (ii) or (iv) will be assessed a \$10 convenience fee with a 4% annual increase thereafter (rounded to the nearest dollar) on each subsequent Agreement anniversary on each occasion applicable (which fee may be updated from time to time by CONTRACTOR upon COUNTY approval). Any Convenience Fee shall be paid first and fully to CONTRACTOR to reimburse it for its processing fees and is not subject to the recovery and payment distribution schedule in the event of a partial payment.
- E. **INCIDENTAL EXPENSE FEES:**
- 1. RESCHEDULING FEE:** Participants who fail to cancel their originally scheduled Seminar time without 48 hour advance notice or who fail to appear at their scheduled Seminar or who cancel any subsequently scheduled Seminars will be required to pay a \$25 rescheduling fee with a 4% annual increase thereafter (rounded to the nearest dollar) on each subsequent Agreement anniversary for each occurrence.
 - 2. PAYMENT FEES:** The Diversion Program shall require all Participants who have enrolled in a payment plan and miss their scheduled payment date (payment is postmarked more than five (5) days from the scheduled date) to pay a \$10 late fee to cover the additional administrative expense resulting from the failure to comply with the scheduled payment plan(s), not to exceed \$50 annually.
 - 3. OVERPAYMENT/HANDLING FEE:** All overpayment balances over \$5 shall be paid to the Participant(s) within ninety (90) days after all Program requirements have been satisfied, less a \$5 handling fee. All overpayments under \$5 shall be retained by CONTRACTOR.
- F. **PROGRAM COSTS:** All direct costs to the COUNTY resulting from mail services, banking fees, postal box rental and related mail costs, shall be charged against and paid from CONTRACTOR's portion of the Administrative Fees. CONTRACTOR shall bear all costs related to its personnel, supplies, and expenses.
- G. **COMPENSATION:** CONTRACTOR shall receive up to 50% of the Administrative Fees received monthly so long as the COUNTY's base payment is at least \$4,800 per Exhibit A County Compensation. CONTRACTOR shall also receive 100% of the Diversion Seminar, Convenience, and Incidental Expense Fees.

- H. **PAYMENT DISBURSEMENT SCHEDULE:** Victim restitution receipts in prior months shall be disbursed by check (or other electronic transfer method per victim's request) to the victim no later than the 20th day of each month for the prior month's receipts, along with a detailed accounting of the restitution paid. CONTRACTOR's fees shall be disbursed weekly to CONTRACTOR (which frequency may be updated from time to time by CONTRACTOR for administrative efficiencies). Bills for mail costs and postal box rentals shall be paid according to vendor terms. The balance of the fees owed to the COUNTY shall also be disbursed by the 20th day of each month for the prior month's receipts.
- I. **RECOVERY AND PAYMENT DISTRIBUTION:** Lump sum payments shall be distributed in their entirety according to the payment disbursement schedule under which victims are paid first. When partial payments are received, the following distribution priority shall be used: 50% of the partial payment is applied to the victim restitution balance (until satisfied). The remaining portion of the payment is applied first to the Diversion Seminar Fee and secondly to the Administrative Fees (if any), and last to Incidental Expense Fees (if any). In cases where there are multiple victims, restitution payments will be applied on a first-in first-out (FIFO) basis with respect to the crime report filing date.

**EXHIBIT C
RESPONSIBILITIES OF COUNTY**

1. **Diversion Program Guidelines.** COUNTY shall establish the policies and procedures of the Diversion Program and instruct CONTRACTOR regarding the administrative requirements necessary for effective Diversion Program operation. COUNTY shall establish eligibility criteria for all Participants in the Diversion Program and shall determine if probable cause of a Bad Check Violation exists under state penal law, and that contact with the alleged offender for purposes of participation in the Diversion Program is appropriate and consistent with The Act, as so required. This determination by the District Attorney/COUNTY shall be communicated to the Diversion Program via its authorized and approved intake, dispute resolution, and prosecution review criteria and as these and other future required documents, as needed, may be added or updated from time to time by the District Attorney/COUNTY. The District Attorney/COUNTY shall also determine, consistent with state statutory law if applicable, specific Diversion Program completion criteria, and procedures regarding the management of cases for those individuals who fail to comply with Diversion Program requirements, including the payment of full restitution and Diversion Program Fees.

2. **Designation of District Attorney's "Communications Liaison Officer."** COUNTY shall designate one of its properly authorized employees as the Communications Liaison Officer (the "Communications Officer"). The Communications Officer shall be charged with final approval, signature, and coordination of all written communications to Participants concerning the Diversion Program, except for those communications relating exclusively to conducting and scheduling of Seminars, which is the primary responsibility of CONTRACTOR. Furthermore, the Communications Officer shall authorize and supervise all communications with Participants concerning the terms and conditions of the Diversion Program, including directing the dispute process to comply with The Act, as so required, which will include a clear and conspicuous statement in the initial notice informing Participants that they have 30 days to dispute in writing the validity of any alleged Bad Check Violation ("Written Dispute"). The initial notice will also inform Participants of their various approved dispute options and requirements. CONTRACTOR shall adhere to the authorized dispute resolution criteria and shall forward any such unresolved Written Disputes to the Communications Officer, who will then provide, per The Act, explicit direction(s) as to how to resolve the dispute and whether such Participant has been further determined eligible for continued participation in the Diversion Program. CONTRACTOR shall be responsible for all communications with Participants regarding the conduct and scheduling of the Seminars, including attendance, location, rescheduling of Seminars, or other Seminar related matters. CONTRACTOR personnel shall direct any questions within the responsibility of the Communications Officer to the Communications Officer, and not discuss these issues with Participants.

3. **Compensation to Contractor.** CONTRACTOR is to be compensated from the proceeds of the Diversion Seminar Fees charged to the Participants, from Contractor's portion of the Administrative Fees (if any), and from Incidental Expense Fees (if any) charged to Participants for monitoring restitution, accounting costs associated with payment arrangements, and any other incidental costs authorized by law or the COUNTY. The authorized Diversion Seminar Fees, Administrative Fees (if any), and Incidental Expense Fees (if any) are set forth on Schedule I attached hereto.

4. **Confidentiality.** COUNTY agrees to protect all proprietary information CONTRACTOR provides in connection with the performance of this Agreement, including CONTRACTOR's communications materials, teaching materials, instructional guidelines, financial condition, business plans, customer identities, and technical information. The parties agree upon termination of this Agreement to refrain from using any proprietary or confidential information or materials unless such materials or information may become evidence in any criminal prosecution or civil action that affects Santa Barbara County of the State of California.

5. **Funds and Disbursements.** Participants in the Diversion Program shall be instructed to remit payments: i) to a post office box maintained by COUNTY, ii) over the phone and/or Internet, (e.g., via credit/debit card, ACH or other EFT type transaction), iii) via Western Union (or equivalent service provider), or iv) other payment methods that may be available in the future, after which monies shall be deposited in a federally insured Account. Disbursements from the Account shall be made on a regular cycle with the assistance of CONTRACTOR. A summary of all Account transactions shall be reported on a monthly basis, with supporting documentation made available for inspection upon request.

**EXHIBIT D
OWNERSHIP OF DOCUMENTS**

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever and any material necessary for the practical use of the data and/or documents from the time of collection and/or production, (expressly excluding any aforementioned PC and software in this or any previous Contract between CONTRACTOR and COUNTY), whether or not performance under this Agreement is completed or terminated prior to completion.

CONTRACTOR shall not release any materials under this section (with the exception of bad checks returned to the bad check writer after restitution has been made or to the victim after all reasonable attempts for restitution have been unsuccessful), except after prior written approval of COUNTY.

**EXHIBIT E
INDEMNIFICATION**

Indemnification pertaining to other than Professional Services:

CONTRACTOR shall defend, indemnify and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including reasonable attorney's fees), judgments or liabilities (together "Loss"), to the extent that such Loss was caused by CONTRACTOR arising out of or in connection with its respective responsibilities and authority under this Agreement; or arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting from the sole negligence or willful misconduct of the COUNTY.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

Indemnification pertaining to Professional Services:

CONTRACTOR shall indemnify and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including reasonable attorney's fees), judgments or liabilities arising out of the negligent performance or attempted performance of the provisions hereof (together "Loss"), to the extent that such Loss was caused by CONTRACTOR arising out of or in connection with its respective responsibilities and authority under this Agreement; or arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including any willful or negligent act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him to the fullest extent allowable by law.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

Other Indemnification Clause:

CONTRACTOR agrees to indemnify and hold harmless Santa Barbara County District Attorney/COUNTY, her officers, agents, and employees, from and against any and all third party actions and responsibilities, whether arising from personal injury, property damage, other damages or economic loss of any type, that may be asserted by any person or entity (together "Loss"), to the extent that such Loss was caused by CONTRACTOR arising out of or in connection with its respective responsibilities and authority under this Agreement. Santa Barbara County District Attorney/COUNTY agrees to indemnify and hold harmless CONTRACTOR, its officers, agents, and employees from and against any and all third party actions and responsibilities, whether arising from personal injury, property damage, other damages or economic Loss of any type, that may be asserted by any person or entity, to the extent that such Loss was caused by the COUNTY/District Attorney arising out of or in connection with its respective responsibilities and authority under this Agreement.

INSURANCE

Without limiting the CONTRACTOR's indemnification of the COUNTY, CONTRACTOR shall procure the following required insurance coverages at its sole cost and expense. All insurance coverages are to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are authorized insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place CONTRACTOR in default. Upon request by the COUNTY, CONTRACTOR shall provide a certified copy of any insurance policy to the COUNTY within ten (10) working days.

1. Workers' Compensation Insurance. Statutory Workers' Compensation and Employers Liability Insurance shall cover all CONTRACTOR's staff while performing any work incidental to the performance of this Agreement. The policy shall provide that no cancellation, or expiration or reduction of coverage shall be effective or occur until at least thirty (30) days after receipt of such notice by the COUNTY. In the event CONTRACTOR is self-insured, it shall furnish a copy of Certificate of Consent to Self-Insure issued by Department of Industrial Relations for State of California. This provision does not apply if CONTRACTOR has no employees as defined in Labor Code Section 3350 et seq. during the entire period of this Agreement and CONTRACTOR submits a written statement to the COUNTY stating that fact.
2. General and Automobile Liability Insurance. The general liability insurance shall include bodily injury, property damage and personal injury liability coverage, shall afford coverage for all premises, operations, products and completed operations of CONTRACTOR and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the Contractor in the indemnity and hold harmless provisions [above] of the Indemnification Section of this Agreement between COUNTY and CONTRACTOR. The automobile liability insurance shall cover all owned, non-owned and hired motor vehicles that are operated on behalf of CONTRACTOR pursuant to CONTRACTOR's activities hereunder. CONTRACTOR shall require all subcontractors to be included under its policies or furnish separate certificates and endorsements to meet the standards of these provisions by each subcontractor. COUNTY, its officers, employees, and agents shall be Additional Insured status on any policy. A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each shall be included in the policies. A copy of the endorsement evidencing that the policy has been changed to reflect the Additional Insured status must be attached to the certificate of insurance. The limit of liability of said policy or policies for general and automobile liability insurance shall not be less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Any deductible or Self-Insured Retention {SIR} over \$10,000 requires approval by the COUNTY.

- Said policy or policies shall include a severability of interest or cross liability clause or equivalent wording. Said policy or policies shall contain a provision of the following form:
"Such insurance as is afforded by this policy shall be primary, and if the COUNTY has other valid and collectible insurance, that other insurance shall be excess and non-contributory."

If the policy providing liability coverage is on a 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three years following completion of the performance or attempted performance of the provisions of this agreement. Said policy or policies shall provide that the COUNTY shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage.

3. Professional Liability Insurance. Professional liability insurance shall include coverage for the activities of CONTRACTOR's professional staff with a combined single limit of not less than \$1,000,000 per occurrence or claim and \$2,000,000 in the aggregate. Said policy or policies shall provide that COUNTY shall be given thirty (30) days written notice prior to cancellation, expiration of the policy, or reduction in

reduction in coverage. If the policy providing professional liability coverage is an on 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three (3) years following completion of the performance or attempted performance of the provisions of this agreement.

CONTRACTOR shall submit to the Santa Barbara County District Attorney's Office, Attn: Marnie B. Pinsker or successor, District Attorney Assistant Director - Administration, representative certificate(s) of insurance documenting the required insurance as specified above prior to this Agreement becoming effective. COUNTY shall maintain at current certificate(s) of insurance all times in the office of the designated COUNTY representative as a condition precedent to any payment under this Agreement. Approval of insurance by COUNTY or acceptance of the certificate of insurance by COUNTY shall not relieve or decrease the extent to which the CONTRACTOR may be held responsible for payment of damages resulting from CONTRACTOR's services of operation pursuant to the contract, nor shall it be deemed a waiver of COUNTY's rights to insurance coverage hereunder.

In the event the CONTRACTOR is not able to comply with the COUNTY's insurance requirements, COUNTY may, at their sole discretion and at the CONTRACTOR's expense, provide compliant coverage.

The above insurance requirements are subject to periodic review by the COUNTY. The COUNTY's Risk Manager is authorized to change the above insurance requirements, with concurrence with County Counsel, to include additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against the COUNTY or inflation. This option may be exercised during any amendment of this Agreement that results in an increase in the nature of COUNTY's risk and such change of provisions will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits must be made by written amendment to this Agreement. COUNTY agrees to request such amendment in best faith and CONTRACTOR agrees to execute any such amendment within thirty (30) days of acceptance of the amendment or modification (and with sufficient time to reasonably pursue such coverage changes at the most reasonable economic terms available).

EXHIBIT F TERMINATION

A. By COUNTY: COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience or because of failure of CONTRACTOR to fulfill the obligations herein. Upon receipt of notice, all files received by CONTRACTOR prior to contract cancellation date will remain in the Program to be worked through to completion of processing procedures. CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports and all other records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, as requested by COUNTY.

1. For Convenience. COUNTY may terminate this Agreement upon ninety (90) days written notice. Following the notice of such termination, CONTRACTOR shall promptly cease processing any new work and notify COUNTY as to the status of its performance.

2. For Cause: Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions where COUNTY has previously notified CONTRACTOR of these breaches and CONTRACTOR has not made good faith effort to correct the problem within ninety (90) days, COUNTY may, at COUNTY's sole option, terminate this Agreement by written notice which shall be effective upon receipt by CONTRACTOR.

Either party may terminate this Agreement with cause upon ninety (90) days written notice given one to the other, if either party fails to perform any of the terms of this Agreement. This Agreement is terminated ninety (90) days after receipt of notice by the allegedly breaching party if the alleged breach has not been cured within that time, or if the alleged breach cannot be cured within ninety (90) days. Termination notice shall be deemed served five (5) days from the date when written and deposited in the U.S. Mail, certified return-receipt requested.

Upon termination of this Agreement, the information pertaining to COUNTY that is contained in CONTRACTOR's Master file will be the property of COUNTY.

It is expressly agreed to and understood that any and all current and future systems and programs in use and/or developed by CONTRACTOR necessary to fulfill the NSF service Contract will remain the sole property of CONTRACTOR.

Upon receiving written notice of termination, CONTRACTOR shall do the following:

1. Comply with termination instructions provided by the District Attorney in a manner that is consistent with recognized standards of prudent business practice.
2. Obtain immediate clarification from the COUNTY/District Attorney, whether by meeting or in writing, on any unsettled issue of Agreement performance during the remaining TERM.
3. Until date of termination, continue to provide the same level of service required by Agreement.
4. If records are to be transferred, such records shall be packed and labeled in accordance with directions provided by the District Attorney. Compensation and revenues to both parties will continue until termination date in the same manner as when the Contract was in effect.
5. Upon termination of this contract, the information pertaining to COUNTY that is contained in CONTRACTOR'S Master file will be the property of COUNTY. The information pertaining to the COUNTY will be delivered to COUNTY in (1) an electronic digital format such as Adobe PDF or

Microsoft Word format, which will allow the COUNTY to look up full case information on all COUNTY cases in CONTRACTOR'S system, and (2) in an electronic file format such as an export XML format through which the data on all COUNTY cases in CONTRACTOR'S system can be exported to another data base.

This Agreement shall remain in full force for sixty (60) full months from the date of acceptance with renewal review per section regarding TERM. CONTRACTOR will contact COUNTY three (3) months in advance to initiate Agreement renewal. At the end of the sixty (60) month period, this Agreement shall remain in full force and effective until written notice of termination due to failure to perform or cessation of the Bad Check Program is delivered by one party hereto to the other, which notice shall become effective ninety (90) days following the month in which the notice is received. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by the COUNTY.