

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

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 Jail Education Solutions Inc. d/b/a Edovo, a Delaware corporation, 215 W. Superior, Suite 600, Chicago, Illinois, 60654 ("Edovo") wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, County wishes to obtain specialized services in order to provide inmates incarcerated at the County jail access to educational, vocational, and treatment programming through tablet technology in a closed system environment; and

WHEREAS, Edovo provides educational, vocational, and treatment programming ("the *Platform Content*" an overview is set forth on **Exhibit A**) through its tablet technology ("*Tablet/s*") (collectively the Platform Content and the Tablets are referred to herein as the "*Tablet Program*") in a closed system environment.

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

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

1. DESIGNATED REPRESENTATIVE

Tim McWilliams, Lieutenant at phone number 805-681-4047 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Brian Hill (or Jason Hackathorn) at phone number 815-790-6225 or 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 personal delivery, email with confirmation of receipt, or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY: Tim McWilliams, Lieutenant
Santa Barbara County Sheriff's Office
4436 Calle Real
Santa Barbara, CA 93110
Tfm2204@sbsheriff.org

To CONTRACTOR: Edovo
Attn: Brian Hill
500 W. Madison, Suite 801
Chicago, IL 60661
Brian@edovo.com
Copy: valerie@edovo.com

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received

five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES

CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

The services to be provided pursuant to this Agreement and the programmatic responsibilities of the parties are set forth in the Statement of Work on **Exhibit B**, attached hereto and incorporated by reference herein.

4. TERM

CONTRACTOR shall commence performance on July 15, 2017 and end performance upon completion, but no later than July 14, 2018, unless otherwise directed by COUNTY or unless earlier terminated.

Upon written approval by both parties, the one year term may be automatically extended for an additional one year if funding is available and approved by the Santa Barbara County Community Corrections Partnership.

5. COMPENSATION OF CONTRACTOR

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

Program costs and payment terms are set forth on **Exhibit C**.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. 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. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

7. STANDARD OF PERFORMANCE

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement,

shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. DEBARMENT AND SUSPENSION

CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. TAXES

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. 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 workers' compensation insurance.

10. CONFLICT OF INTEREST

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

All work performed or supplies created by CONTRACTOR specifically for COUNTY under this Agreement, whether written documents or data, goods or deliverables of any kind, shall be deemed work for hire under copyright law and all intellectual property and other laws, and the COUNTY is granted sole and exclusive ownership to all such work, unless otherwise agreed in writing. CONTRACTOR hereby assigns to the State all right, title, and interest in and to such work including any related intellectual property rights, and/or waives any and all claims that CONTRACTOR may have to such work including any so-called "moral rights" in connection with the work. CONTRACTOR acknowledges the State may use the work product for any purpose. Confidential data or information contained in such work shall be subject to confidentiality provisions of this contract. CONTRACTOR retains all other rights, including intellectual property rights, related to its tablet devices, delivery systems, software, and platform content. COUNTY is granted a non-exclusive license to those intellectual property rights to the extent necessary to receive the services outlined in this contract.

12. NO PUBLICITY OR ENDORSEMENT

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press

releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

13. COUNTY PROPERTY AND INFORMATION

All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

14. 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 principles. 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 reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

15. INDEMNIFICATION AND INSURANCE

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

16. NONDISCRIMINATION

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the 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.

17. NONEXCLUSIVE AGREEMENT

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

18. NON-ASSIGNMENT

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY, which shall not be unreasonably withheld, and any

attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

19. **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, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.

1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term for services that have not yet been provided. COUNTY shall be obligated to complete payment on products and services delivered prior to termination.
3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.

B. **By CONTRACTOR.**

1. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.
2. If COUNTY fails to fulfill in a timely and proper manner its obligations under this Agreement or otherwise breaches this Agreement and fails to cure such failure or breach within thirty (30) days of receipt of written notice from the other party describing the nature of the breach, Contractor may, in addition to any other remedies it may have, terminate this Agreement by giving thirty (30) days prior written notice to the County in the manner set forth in Paragraph 2 (Notices).

- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

20. 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.

21. 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.

22. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to either party 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 hereunder or now or hereafter existing at law or in equity or otherwise.

23. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

24. NO WAIVER OF DEFAULT

No delay or omission of either party to exercise any right or power arising upon the occurrence of any event of 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 the parties shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of the party exercising such power and remedy.

25. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement and the Exhibits hereto contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any 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 agreements, course of conduct, waiver or estoppel.

26. 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 inure to the benefit of such party, its successors and assigns.

27. COMPLIANCE WITH LAW

CONTRACTOR shall, at its 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 judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY is 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.

28. CALIFORNIA LAW AND JURISDICTION

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.

29. 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.

30. AUTHORITY

All signatories and 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 any 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.

31. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

32. 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.

Agreement for Services of Independent Contractor between the **County of Santa Barbara** and Jail Education Solutions Inc.

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

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

By: _____
Deputy Clerk

COUNTY OF SANTA BARBARA:

By: _____
Joan Hartmann, Chair
Board of Supervisors

Date: _____

RECOMMENDED FOR APPROVAL:

Bill Brown, Sheriff
Santa Barbara County Sheriff's
Office

By: _____
Department Head

CONTRACTOR:

Brian Hill
Jail Education Solutions Inc. d/b/a
Edovo

By: _____
Authorized Representative

Name: _____

Title: _____

APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

By: _____
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

Theodore A. Fallati, CPA
Auditor-Controller

By: _____
Deputy

APPROVED AS TO FORM:

Risk Management

By: _____
Risk Management

EXHIBIT A

STATEMENT OF WORK

During the term of this Agreement, Contractor (also referred to as “Edovo”) shall provide at least 180 new Tablets and supporting equipment, including one set of ear buds, charging stations, and attached protective covers to implement and operate the Tablet Program. Tablets will be placed for use by inmates in mutually agreed upon housing areas as defined by Edovo and County for use in the Santa Barbara County Jail (“*Facility*”).

User Agreement

In conjunction with the use of a Tablet, each person who logs on and creates an account will be required to confirm acceptance of Terms of Use and the Privacy Policy, which shall be available for review within the log-in area of the Tablet. The Terms of Use and Privacy Policy shall be inserted as a pre-condition to use of the Tablet and clicking a checkbox to acknowledge acceptance of the terms shall be a requirement for users.

I. RESPONSIBILITIES OF CONTRACTOR

- A. Edovo shall provide all necessary hardware, provisioning, configuration, and installation of network equipment and end user devices within the Facilities to accommodate the Tablet Program. This process of installation will commence upon execution of the Agreement and is expected to take approximately 90 days.
- B. Edovo shall deliver 180 Tablets with one set of earbuds for each Tablet, and 5 Tablet charge cart(s) to hold the Tablets overnight or during lock up periods and associated equipment, described above, to the Facilities for the operation of the Tablet Program. Additional ear buds, as needed, will be available for inmates to purchase through Commissary.
- C. Edovo shall provide up to 35 access points for the purpose of this deployment.
- D. Edovo shall provide two (2) two-hour training sessions for County staff who will administer the Tablet Program in the Facility. Any additional needed training will be mutually agreed upon by both parties.
- E. Edovo shall equip the Tablets (at a minimum) with the content described as follows:
 - 1. **Language & Literacy** Basic education, literacy and language-learning opportunities on Edovo support the educational achievement of persons entering the system at any learning level. Video, audio and written based courses in this area ensure the opportunity for every user to access the full range of our content.
 - 2. **Academic Advancement** - Courses in science, social studies, language arts and math follow core curriculum focus areas, in addition to college credit earning courses for those seeking higher learning objectives. Edovo users can participate in iPathways, a leading high school equivalency prep program, to plan and prepare for their high school equivalency exam.
 - 3. **Professional Life, Law, and Finances** – Edovo supports the future of success of users with content of particular use to the justice-involved population. Inmates can access basic legal information, in English and Spanish, and engage in specialized vocational and soft skills programming to jumpstart the career exploration process.

4. **Health & Wellness** - Our health and wellness material spans from meditational practice, treatment and recovery, to personal health and how to apply for health insurance. The courses are designed to reach people with diverse needs and health backgrounds, seeking recovery, self-improvement, and general well-being.
 5. **Religious Experience** - Religious study courses and videos allow users to learn about world religions. Additionally, we are currently building out a library of video sermons for the spiritual connectivity of our users.
 6. **Exploration** - Our exploratory learning opportunities range from Chicago Ideas Week talks and Khan Lite videos to daily inspiration and parenting resources. Over 5,000 exploration options encourage inmates toward knowledge and creative stimulation beyond a traditional academic framework.
- F. Edovo shall conduct initial on-site testing of the Tablets and network prior to the programming implementation and upon successful completion of testing, County shall release of payment.
 - G. Edovo shall proactively monitor hardware assets via a secure networking monitoring system and perform remote troubleshooting. If hardware failure is detected and not due to negligence or misuse of the County, Facility, or inmates/users, Edovo shall ship replacements for installation (i) by Facility (if preferred by County), or (ii) Edovo personnel or through a subcontractor authorized by Edovo. Replacement or repair of non-working or malfunctioning Tablets or hardware outside of ordinary wear and tear or due to negligence or misuse is the responsibility of County. If malfunction is due to inmate intentional misuse or damage, the County will bill the inmate for the cost of the tablet and will secure a replacement through Edovo.
 - H. Edovo may, in a separate agreement with the County, which consent shall not be unreasonably withheld, add for-fee services to the tablets (including but not limited to premium content and subscription or communication services) which shall be paid for by the inmates directly or indirectly through supporters outside the facility.
 - I. Edovo will replace or repair tablets which are malfunctioning, or defective based upon manufacturing defects.
 - J. Edovo will replace 5% (nine total) of Tablets annually for physical damages, including but not limited to physically damaged screens, physically damaged ports, physically damaged buttons, and general case wear and tear. Additional replacement or repair of Tablets will be conducted on an as needed basis at a rate of \$250 per tablet. Edovo will invoice County for the total number of additional tablets that have been replaced and associated shipping costs.
 - K. Edovo will, with Sheriff's Systems and Technology, address any firewall security breaches and will immediately notify Program Unit Lieutenant of any breaches.

II. RESPONSIBILITIES OF COUNTY

During the Term of this Agreement, County shall:

- A. Be responsible for reimbursing Edovo for a broadband internet connection and the ongoing provision of broadband service with at least a 25 Mbps per 60 tablets of dedicated bandwidth for Edovo. Edovo's delivery of services is dependent on this internet connection. This cost is included in the compensation set forth in Exhibit B.
- B. Designate an individual to serve as the principal contact for communications with Edovo regarding implementation and operation of the Tablet Program and provide the identity of that individual and that individual's contact information to the Edovo, which information County shall keep current.
- C. Designate an individual or individuals at the Facility to administer the daily checking in/out of Tablets and provide the identity of such individual and such individual's contact information to Edovo, which information County shall keep current.
- D. Select the specific populations within the Facility who are eligible to have access to the Tablets and make the Tablets available for use on a daily basis to the inmates unless such activity is precluded due to significant security concerns.
- E. Determine a healthy ratio of tablets to inmates in any deployed area of the Tablet Program. It is recommended that the ratio be 1:1 or at most 2:1.
- F. Designate a secure location within the Facility for storage of the Tablets and ensure that Tablets are stored securely within wireless connectivity range when not in use.
- G. Monitor use of the Tablets, take appropriate action with regard to misuse of Tablets and report misuse to Edovo. County shall pay Edovo \$250 per tablet returned damaged due to intentional misuse.
- H. Provide or make available for purchase prior to launch day functionally compatible earbuds to be made available throughout the duration of the Edovo program. Edovo provides low-tensile strength, correctional grade earbuds for use with each tablet. These are meant to break when significant tension is applied, therefore adhering to suicide prevention standards. These earbuds are individually packaged and feature foam earbuds for ensured comfort.
- I. Request a Return Merchandise Authorization Form (RMA) from Edovo for any non-operating tablets.
- J. Work with Sheriff's Systems and Technology to provide Edovo a daily digital file of accurate inmate information. This file will be uploaded to the Edovo FTP site by 9:00 p.m. daily and will, at a minimum, contain: First and last name, Inmate ID and Date of Birth.

III. MISCELLANEOUS TERMS

The following additional terms shall at all times apply:

- A. All title to the tablets, charge carts, hardware, and platform and licensed material remains with Edovo and upon termination of this Agreement will be returned to Edovo in good and working order. Any damage to or theft of the equipment or tablets outside of ordinary wear and tear is the responsibility of County.
- B. Any and all tablets and hardware described herein and to be provided pursuant to this Agreement

may be substituted by Edovo, in its sole discretion, by items of equal or greater quality.

EXHIBIT B

PAYMENT ARRANGEMENTS Compensation Upon Completion

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$ **180,000** as outlined:
 - 1. a one-time fee of EIGHTY ONE THOUSAND FOUR HUNDRED FIFTY AND NO CENTS (\$81,450.00) to be paid upon delivery of 180 tablets to County for hardware installation, delivery, training, and inmate account set-up, and due within 30 days from the invoice date;
 - a. a one-time fee of NINETY EIGHT THOUSAND FIVE HUNDRED FIFTY THOUSAND AND NO CENTS (98,550.00) to be paid upon the first availability, of fully functional tablets to the inmates for the daily licensing fees for the duration of the Contract Period, and due within 30 days from the invoice date; and
 - b. Should County determine that it will continue to use tablets beyond the one year term of this contract, County understands that the tablets will be leased at the following daily licensing rate:
 - c. \$1.50 per Tablet per day, payable in equal monthly installments of \$8,212.50, and due within 30 days from the invoice date
 - 2. Expenses. No travel or other expenses will be reimbursed by County.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY.
- C. Upon completion of the work detailed in **EXHIBIT A** and/or delivery to COUNTY of item(s) specified therein, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed. This invoice or claim must cite the assigned Board Contract Number. COUNTY DESIGNATED REPRESENTATIVE shall evaluate the quality of the service performed and/or the item(s) delivered and if found to be satisfactory shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR.
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

EXHIBIT C

Indemnification and Insurance Requirements (For Information Technology Contracts)

INDEMNIFICATION

Each party (the “Indemnifying Party”) agrees to defend, indemnify, and hold harmless the other party and its officers, officials, employees or agents (the “Indemnitee”) against any and all claims, damages, costs, liabilities, and expense, including reasonable attorney fees, arising from or attributable to the Indemnifying Party’s negligent acts or omissions and intentional misconduct which is brought against an Indemnitee in connection with the activities, related services or the Indemnifying Party’s breach of its responsibilities under this Agreement.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an “occurrence” basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers’ Compensation:** as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability** (Errors and Omissions) Insurance appropriate to the CONTRACTOR’S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$1,000,000 aggregate.
5. **Cyber Liability Insurance:** covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security, with limit of no less than \$1,000,000 per occurrence or claim, \$1,000,000 aggregate

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
 - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
 - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.