

Attachment B: Agreement for Software License, Support Maintenance,
FY 2018-2022 AutoMon, LLC, BC19-085

AGREEMENT FOR SOFTWARE LICENSE, SUPPORT AND MAINTENANCE

THIS AGREEMENT FOR SOFTWARE LICENSE SUPPORT AND MAINTENANCE (hereafter Agreement) is entered into as of this 1st day of June 2018, by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and AutoMon, LLC, a Delaware limited liability company with principles offices at 6621 N. Scottsdale Road, , Scottsdale, AZ 85250 (hereafter "AUTOMON")

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

1. DESIGNATED REPRESENTATIVE

Damon Fletcher at phone number (805) 882-3654 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Tom Jones at phone number (480) 368-8555 is the authorized representative for AUTOMON. 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 or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY: County of Santa Barbara Probation
Attn: Damon Fletcher
117 E. Carrillo St.
Santa Barbara, CA 93101

To AUTOMON: AutoMon, LLC
Attn: Tom Jones
6621 N Scottsdale Road
Scottsdale, AZ 85250

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

AUTOMON agrees to provide services to COUNTY in accordance with EXHIBIT A-2 attached hereto and incorporated herein by reference.

4. TERM

The term shall commence on June 1, 2018 and end May 31, 2022 unless earlier terminated by the COUNTY. COUNTY may extend the term for two (2) additional four (4) year periods following the expiration of the initial term by amendment to this Agreement signed by both parties.

5. COMPENSATION OF AUTOMON

In full consideration for AUTOMON's services, AUTOMON 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 A. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that AUTOMON (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 AUTOMON shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that AUTOMON is performing its obligations in accordance with the terms and conditions hereof. AUTOMON 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. AUTOMON shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, AUTOMON shall be solely responsible and save COUNTY harmless from all matters relating to payment of AUTOMON'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, AUTOMON may be providing services to others unrelated to the COUNTY or to this Agreement.

7. STANDARD OF PERFORMANCE

AUTOMON represents that it has the skills, expertise, and licenses and or permits necessary to perform the services required under this Agreement. Accordingly, AUTOMON shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which AUTOMON is engaged. All products of whatsoever nature, which AUTOMON 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 AUTOMON's profession. AUTOMON 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 AUTOMON without additional compensation.

8. DEBARMENT AND SUSPENSION

AUTOMON 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. AUTOMON certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. TAXES

COUNTY shall not be responsible for paying any taxes on AUTOMON'S's behalf, except as provided herein. Should COUNTY be required to do so by state, federal, or local taxing agencies, AUTOMON 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 for agents, officers, and employees of AUTOMON.

10. CONFLICT OF INTEREST

AUTOMON covenants that AUTOMON 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. AUTOMON further covenants that in the performance of this Agreement, no person having any such interest shall be employed by AUTOMON. COUNTY retains the right to waive a conflict of interest disclosed by AUTOMON if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to AUTOMON in writing.

11. OWNERSHIP OF DATA, DOCUMENTS AND INTELLECTUAL PROPERTY

COUNTY shall be the owner of electronic data or information submitted to and stored in the Purchased Services, (as defined in Exhibit A), by the County, any reports generated by the County from the Purchased Services and any documentation that the County creates associated with the use of the Purchased Services (the "County Data"). COUNTY shall have the unrestricted authority to publish, disclose, distribute, and otherwise use in whole or in part any of the County Data and or generated reports. AUTOMON shall not release any material under this section except after prior written approval of COUNTY.

AUTOMON is the sole owner of its intellectual property under this agreement.

AUTOMON warrants that any Copyrightable Works and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. AUTOMON at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or other items provided by AUTOMON hereunder infringe upon intellectual or other proprietary rights of a third party, and AUTOMON shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims.

AUTOMON will not be liable for any claims based on the following: COUNTY modification of the Services, AutoMon Technology or Content other than as contemplated by this Agreement; Use of the Services in a manner other than as contemplated in this Agreement; Claims arising from the use of old versions of Services after receipt of modified or updated versions; Claims arising from the use of COUNTY third-party applications or data; and claims attributable to COUNTY or COUNTY Personnel intentional, reckless, or negligent acts or omissions.

This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

12. NO PUBLICITY OR ENDORSEMENT

AUTOMON shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. AUTOMON shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing AUTOMON. AUTOMON shall not in any way contract on behalf of or in the name of COUNTY. AUTOMON 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 AUTOMON's use in connection with the services shall remain COUNTY's property, and AUTOMON shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. AUTOMON may use such items only in connection with providing the services. AUTOMON shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

14. RECORDS, AUDIT, AND REVIEW

AUTOMON shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of AUTOMON'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 AUTOMON's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), AUTOMON 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). AUTOMON 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, AUTOMON 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, AUTOMON 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

AUTOMON 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 AUTOMON 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 AUTOMON agrees to comply with said ordinance.

17. NONEXCLUSIVE AGREEMENT

AUTOMON 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 AUTOMON as the COUNTY desires.

18. NON-ASSIGNMENT

AUTOMON 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 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 AUTOMON, 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 AUTOMON 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, AUTOMON 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 AUTOMON 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.
 3. **For Cause.** Should AUTOMON 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, AUTOMON 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 AUTOMON, unless the notice directs otherwise.
- B. **By AUTOMON.** Should COUNTY fail to pay AUTOMON all or any part of the payment set forth in EXHIBIT B, AUTOMON may, at AUTOMON'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.
- C. Within thirty days of the effective date of any termination, AUTOMON shall deliver to COUNTY all of County's data and other property, records, reports, summaries, or papers in AUTOMON's possession or under its control. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay AUTOMON for satisfactory services performed to the date of termination.

In the event of a termination for convenience or non-appropriation of funds, (1) COUNTY will pay all properly submitted and outstanding invoices as of the effective date of termination, (2) COUNTY will not be entitled to any refund for the period following the effective date of termination and the next anniversary date of this Agreement. In the event of a termination for cause, AUTOMON will refund the COUNTY any prepaid fees covering the remainder of the term of all subscriptions after the effective date of the terminations.

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 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 hereunder or now or hereafter existing at law or in equity or otherwise.

23. NO WAIVER OF DEFAULT

No delay or omission of COUNTY 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 COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

24. ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement 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.

25. 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.

26. COMPLIANCE WITH LAW

The parties shall each, at their own 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 and use of purchased services. The judgment of any court of competent jurisdiction, or the admission of either party in any action or proceeding against them, whether the other party is a party to such action or not, that such party has violated any such ordinance or statute, shall be conclusive of that fact as between AUTOMON and COUNTY.

27. 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.

28. 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.

29. 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, AUTOMON hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which AUTOMON is obligated, which breach would have a material effect hereon.

30. 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.

31. 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 AutoMon, LLC.

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

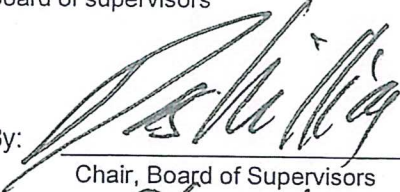
ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

By: 
Deputy Clerk

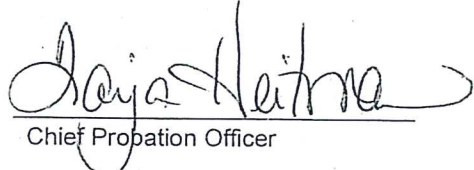
COUNTY OF SANTA BARBARA:

Das Williams
Board of supervisors

By: 
Chair, Board of Supervisors
Date: 8/29/18


RECOMMENDED FOR APPROVAL:

Tanja Heitman
Santa Barbara County Probation

By: 
Chief Probation Officer

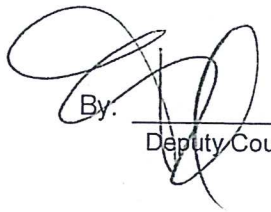
AUTOMON:

AutoMon, LLC

By: 
Authorized Representative
Name: Tom Jones
Title: President and CEO

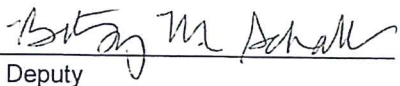
APPROVED AS TO FORM:

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

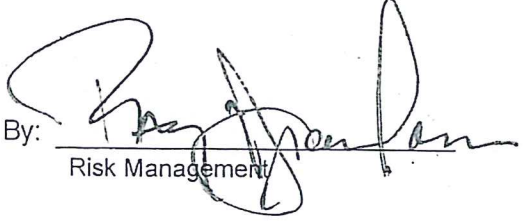
By: 
Risk Management

EXHIBIT A

STATEMENT OF WORK

I. Caseload Explorer License:

COUNTY acquired a license in perpetuity for Caseload Explorer in May of 2000 in an Agreement for Computer Hardware, Software and Services between the County and Averstar, Inc. AutoMon is a successor in interest to Averstar with respect to that agreement. Except as modified by the terms and conditions of this Agreement and any exhibits thereto, the County's license rights are incorporated by reference in this Agreement.

AutoMon is to provide the County Probation Department with the following Services ("Purchased Services"):

- Caseload Explorer Updates, Support, and Maintenance
- Ce Assessments (Subscription License, Updates, Support and Maintenance, Hosting)
- Ce Programs (Subscription License, Updates, Support and Maintenance, Hosting)
- Ce Planning (Subscription License, Updates, Support and Maintenance, Hosting)
- Ce Provider Exchange (Subscription License, Updates, Support and Maintenance, Hosting)
- Ce Field (Subscription License, Updates, Support and Maintenance, Hosting)

II. Grant of License – CE Connect Suite

AutoMon hereby grants to the County Probation Department a non-exclusive, non-transferable, royalty-free, revocable license to use, reproduce and practice the Purchased Services during the Term. The license granted hereunder is revocable only if the County fails to pay the fees and charges associated with the items as shown below.

Services	Details	Year 1	Year 2	Year 3	Year 4
The Ce Connect Suite, including Assessments, Check-In, Planning, Programs, Provider Exchange, Field, Analytics	Subscription License, Updates, Support and Maintenance, Hosting	\$8,216.82	\$8,545.49	\$ 8,887.31	\$9,242.81
Caseload Explorer Updates, Support, and Maintenance	Support for County hosted on premise solution, updates, maintenance and support.	\$114,690.96	\$119,278.60	\$124,049.74	\$129,011.73
Ce Pretrial	Annual Product Subscription License(s). Subscription dates (12 months duration), TBD. Additional full access user licenses available at \$900/annual Subscription. Unlimited read-only access licenses, upon customer request. Limited for exclusive use by Santa Barbara County Probation/Pretrial. First year pro rate for September 1, 2018 to May 31, 2018.	\$3,375.00	\$4,680.00	\$4,867.20	\$5,061.89
Configuration: Caseload Explorer Integration	Integration available with Caseload Explorer 6.0+	No Charge			
CE Pretrial Configuration and End-User training	Tenant set-up and system configuration; Up to 3 hours end-user training	\$2,000.00			
<i>Purchased Services Total</i>		\$128,282.78	\$132,504.09	\$137,804.25	\$143,316.43

III. Support Services

AUTOMON shall provide COUNTY support services as outlined in AutoMon Software Maintenance Services, Customer Handbook, Version 6.0 Effective Date: January 11, 2017, (as the same may be modified from time to time) which is incorporated by reference.

IV. Automatic Renewal:

- Purchased Services WILL automatically renew for successive one (1) year periods.
- Purchased Services WILL NOT automatically renew and shall expire at the end of the current four year term, provided however, the County may extend the term for up to two (2) additional four (4) year terms by notifying in writing AutoMon not less than sixty days prior to the expiration of the then current term.

V. Technical Service Charges:

TECHNICAL SERVICES CHARGES, IF ORDERED, ARE AS FOLLOWS:

Services	Details	Year 1	Year 2	Year 3	Year 4
Technical Services	Hourly technical services rate for enhancements, customizations, integrations, time and material charges	\$ 201.42	\$ 209.47	\$ 217.85	\$ 226.57

PAYMENT TERMS:

All invoices are due Net 30 Days.

GENERAL NOTES:

- The pricing, discounts and inclusions shown above for technical services charges are subject to revocation if a signed Order Form is not received by AutoMon before the close of business on the Order Expiration Date set forth above.
- Additional work or services requested, such as customizations, localization tasks or interoperability with third-party systems, shall be billed as Time & Materials (based on current-year hourly rate) and will require a separate Work Order. The Annual Subscription Fee(s) may be subject to a 20% annual services surcharge and will be reflected in the Work Order provided to the Customer.
- Annual Subscription rates and technical services charges are subject to annual price escalation equal to 4% for any extended term.
- AutoMon Software Maintenance Services, Customer Handbook, Version 6.0 Effective Date: January 11, 2017 is incorporated by reference to this Order Form.

VI. Use of the Services:

Automon's Responsibilities.

AUTOMON shall: (i) provide basic support for the Purchased Services to COUNTY, (ii) use commercially reasonable efforts to make the Purchased Services available 24 hours a day, 7 days a week, except for: (a) planned downtime of which AUTOMON shall give at least one day prior notice via the Purchased Services and which AUTOMON shall attempt to schedule during standard non-business hours, or (b) any unavailability caused by circumstances beyond AUTOMON'S reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving AUTOMON employees), Internet service provider failures or delays, or interference or interruption due to Malicious Code not uploaded by AUTOMON, denial of service attacks, and (iii) provide the Purchased Services only in accordance with applicable laws and government regulations. If the Purchased Services are maintained on COUNTY servers, our responsibilities are as set forth in the Our Software Maintenance Services, Customer Handbook, Version 6.0 Effective Date: January 11, 2017, as the same may be modified from time to time.

AUTOMON shall (i) maintain, or cause to be maintained, commercially reasonable and appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of COUNTY Data stored with AUTOMON'S hosting vendor, (ii) maintain processes, controls and procedures to ensure AUTOMON'S hosting vendor and AUTOMON'S employees are in compliance with the CJIS Security Policy, HIPPA regulations and similar statutory and regulatory requirements applicable to AUTOMON, with respect to COUNTY'S Data that resides with AUTOMON'S hosting vendor, (iv) use commercially reasonable efforts to prevent unauthorized access, use or misappropriation of COUNTY Data that resides on AUTOMON'S hosting vendor's servers, and notify COUNTY promptly of any such unauthorized access, use or misappropriation, (v) comply at AUTOMON'S expense with all consequences that result from any unauthorized access, use or misappropriation of COUNTY data that resides on AUTOMON'S hosting vendor's servers which is not caused or contributed to by COUNTY Users, and (vi) provide all hardware, systems software and third party software necessary to operate the Purchased Services that run on AUTOMON'S hosting vendor's servers. Whether COUNTY makes use of AUTOMON'S hosting vendor or COUNTY maintained the Purchased Services on COUNTY servers, AUTOMON shall not (a) modify COUNTY Data, (b) disclose COUNTY Data except as compelled by law or expressly permitted in writing by COUNTY, or (c) access COUNTY Data except to provide the Services and prevent or address service or technical problems, or at COUNTY'S request in connection with customer support matters.

AUTOMON will determine the locations of the data centers in which Your Data will be stored and accessible by COUNTY and COUNTY'S users. For federal, state, and local governmental entities making use of AUTOMON'S hosting vendor, We will ensure that all COUNTY Data stored in the Purchased Services remains within the United States including any backup data, replication sites, and disaster recovery sites. AUTOMON will not transfer COUNTY Data to any third parties without COUNTY'S express written directive to transfer such Data, and COUNTY'S complete waiver and release from all liability which may result from or be connected with the transfer or use of COUNTY Data by such third party.

COUNTY'S RESPONSIBILITIES.

The COUNTY shall (i) be responsible for COUNTY Personnel compliance with this Agreement, (ii) be responsible for the accuracy, quality and legality of the COUNTY'S Data and of the means by which COUNTY acquired its data, (iii) maintain processes, controls and procedures to ensure COUNTY and its PERSONNEL compliance with the current version of the CJIS Security Policy, HIPPA regulations and similar statutory and regulatory requirements, (iv) prevent unauthorized access to or use of the Services, and notify AUTOMON promptly of any such unauthorized access or use of any password or account or any other breach of security, (v) use the Services only in accordance with the User Guide and applicable

laws and government regulations, (vi) provide all hardware, systems software and third party software for Services that run on the COUNTY's servers, and (vii) provide desktop computers and related software to operate the Services. COUNTY shall not (a) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.

Acquisition of Non-AutoMon Applications and Content.

AUTOMON or third parties may from time to time make available to COUNTY third-party products or services, including but not limited to Non-AutoMon Applications and Content, training and other consulting services. Any acquisition by COUNTY of such Non-AutoMon Applications or Content, and any exchange of data between COUNTY and any Non-AutoMon provider, is solely between COUNTY and the applicable Non-AutoMon provider of such applications or content. AUTOMON does not warrant or support Non-AutoMon Applications or Content, whether or not they are designated by AUTOMON as "certified" or otherwise, except as explicitly specified in an Order Form.

Integration with Non-AutoMon Applications and Content.

The Services may contain features designed to interoperate with Non-AutoMon Applications and Content (e.g., JSORRAT-II, Virginia Pretrial Risk or Static 99 and similar assessment instruments). To use such features, COUNTY may be required to obtain access to such Non-AutoMon Applications or Content from their providers. If the provider of any such Non-AutoMon Applications or Content ceases to make the Non-AutoMon Applications or Content available for interoperation with the corresponding Service on reasonable terms, AUTOMON may cease providing such Service features without entitling COUNTY to any refund, credit, or other compensation.

EXHIBIT B
PAYMENT ARRANGEMENTS
Periodic Compensation (with attached Schedule of Fees)

- A. For AUTOMON services to be rendered under this Agreement, AUTOMON shall be paid a total contract amount, including cost reimbursements, not to exceed \$541,907.55.
- B. Payment for services and /or reimbursement of costs shall be made upon AUTOMON's satisfactory performance, based upon the scope and methodology contained in EXHIBIT A as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the fees as set forth in Attachment. Invoices submitted for payment that are based upon Attachment A must contain sufficient detail to enable an audit of the charges and provide supporting documentation if requested by the COUNTY
- C. Annually, AUTOMON shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice on the County Treasury for services for the period specified. These invoices must cite the assigned Board Contract Number. COUNTY shall pay invoices within 30 days of receipt of correct and complete invoices from AUTOMON.
- 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 AUTOMON to correct such work or billings or seek any other legal remedy.

E. AUTOMON ANNUAL INVOICING REQUIREMENTS

1. Invoice Format

Annual invoices shall be in a COUNTY pre-approved format. The invoice shall list costs by staff position (including total hours by position) and operating expense and equipment costs consistent with the line items on the attached ATTACHMENT A. All costs claimed by AUTOMON for reimbursement by COUNTY shall be identified in the specific format required by COUNTY.

2. Invoice Linkage to ATTACHMENT A Budget Positions

Any invoiced costs for technical services or equipment costs not listed in ATTACHMENT B-1 of this Agreement will not be reimbursed by COUNTY unless approved in advance by COUNTY.

3. Invoice Timely Submission

AUTOMON shall submit its annual invoice at least 30 days prior to the expiration of the then current contract year to COUNTY DESIGNATED REPRESENTATIVE (i.e. representative listed in paragraph 2, Notices, of the main body of this Agreement).

4. Invoice Signature

Invoices shall be signed and dated by an authorized AUTOMON Designated Representative, as well as, identifying the name and title of the AUTOMON's Designated Representative preparing the invoice.

F. OTHER FINANCIAL REQUIREMENTS:

1. Delivery of Service Commitment

AUTOMON is expected to deliver the level of services (by fiscal year) as specified in the attached ATTACHMENT A. AUTOMON understands and acknowledges that the failure to timely expend funds for any given fiscal year of this

Agreement may jeopardize the ability to meet performance measures or legal requirements and may raise questions about the need for services and viability of providing funds for these services.

2. Inspection of Records

AUTOMON shall make sure books, records, documents and other evidence is available to the COUNTY, or its Designated Representative, during the term of the Agreement or final audit, and for four (4) years after the termination of this Agreement or as otherwise required by law, whichever is later, and provide suitable facilities for access, monitoring, inspection, and copying thereof.

3. Access to Staff and Facilities

AUTOMON shall permit COUNTY or its Designated Representative, to have access to AUTOMON's staff and facilities wherever AUTOMON has been or is performing this Agreement and shall provide proper facilities for access, monitoring and inspection.

EXHIBIT C
Indemnification and Insurance Requirements
(For Information Technology Contracts)

INDEMNIFICATION

AUTOMON agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. AUTOMON's indemnification obligation does not apply to COUNTY's sole negligence or willful misconduct.

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

AUTOMON 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 AUTOMON, 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 AUTOMON 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 AUTOMON'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
5. **Cyber Liability Insurance:** Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

If the AUTOMON maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the AUTOMON. 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 AUTOMON 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 AUTOMON'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 AUTOMON'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 AUTOMON'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** – AUTOMON hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said AUTOMON may acquire against the COUNTY by virtue of the payment of any loss under such insurance. AUTOMON 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 AUTOMON 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** – AUTOMON 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 AUTOMON's obligation to provide them. The AUTOMON 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** – AUTOMON shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and AUTOMON 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 AUTOMON 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. AUTOMON 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.

EXHIBIT D
Consents respecting Section VI, 2.3 of the Statement of Work

County has created the following products, integrations, and links to Caseload Explorer, prior to the effective date of this Agreement:

1. Adult Kiosk
2. Juvenile Kiosk
3. Adult Drug Test
4. Juvenile Drug Test
5. Incentive Database
6. Violations Database
7. Text Message Alert
8. GPS
9. Static 99
10. FTP Livescan Interface
11. FTP Medical Provider Interface
12. IST database
13. Compas Assessment Integration
14. PICS Cashiering System
15. Prop 63 Database
16. SBARA Assessment
17. Credit for Time Serve
18. SATC
19. PRRC Service Center Management System

County will promptly deliver the source code to such products, integrations and links to AutoMon following the effective date of the Agreement.

AutoMon grants the County its consent to continue to make use of these products, integrations and links during the Term of this Agreement.