



RESOLUTION No. 15-471

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH TELEOSOFT, INC. FOR LICENSED SOFTWARE, SERVICES, AND MAINTENANCE OF A WEB-BASED SYSTEM FOR PROCESSING, TRACKING, ACCOUNTING, AND NOTICING OF CIVIL SERVICE PROCESS CONDUCTED BY SHERIFF'S OFFICE PERSONNEL AND ACCEPTING THE SOFTWARE SUITE AS A CAPITAL ASSET

WHEREAS, Sheriff's Offices are required by law to serve civil process paperwork; and

WHEREAS, the current software program being utilized by the Sheriff's Office for the process of Civil Service is no longer being supported by its sole-service provider and has never had the capability to account for monies on a daily basis to the standards set by the County of Nevada; and

WHEREAS, a team of employees from the Sheriff's Office and Information Systems has researched civil service software providers and determined Teleosoft, Inc. has the best value for a product to meet the needs of the Sheriff's Office and Nevada County; and

WHEREAS, Teleosoft, Inc. will provide a web-based software system known as CountySuite:Sheriff, for civil service processing to be installed and implemented prior to the end of this fiscal year; and

WHEREAS, the total project cost of \$100,798, which includes license fees, implementation costs, escrow fees, and Information Systems costs for the server and labor, will be covered using funds from the Civil Fund 1168; and

WHEREAS, maintenance and support fees are under warranty the first year of the Agreement. The following years' fees are: Year Two \$12,581, Year Three \$12,958, Year Four \$13,347, Year Five \$13,748 and Year Six \$14,160. The initial term of the Maintenance Agreement will end on the date immediately prior to the fifth annual anniversary date of the Maintenance Agreement Effective Date, which is yet to be determined. The Agreement allows for an automatic renewal of one year.

THEREFORE, BE IT RESOLVED that the Nevada County Board of Supervisors do:

- 1) Authorize the execution of an Agreement with Teleosoft Inc. for a web-based software system to be installed and implemented prior to the end of fiscal year 2015/2016; with related Maintenance Agreement
- 2) Authorize the purchase of a software suite known as CountySuite:Sheriff as a Capital Asset

Funding from 0101 20201 151 1000 540425

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 13th day of October, 2015, by the following vote of said Board:

Ayes: Supervisors Nathan H. Beason, Edward Scofield, Dan Miller,
Hank Weston and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: _____




Edward C. Scofield, Chair

10/13/2015 cc: Sheriff*
AC*
TS

AGREEMENT FOR LICENSED SOFTWARE, SERVICES, AND MAINTENANCE
County of Nevada, California

This AGREEMENT is made by and between the **County of Nevada**, a political subdivision of the State of California (herein "County"), and **Teleosoft Inc.** (herein "Contractor"), wherein Contractor agrees to provide the software and services commonly known as **CountySuite:Sheriff**. As described in the Schedules comprising this Agreement, Contractor will successfully implement **CountySuite:Sheriff** consisting of all system modules and capabilities necessary to meet the County's requirements as defined in the System Feature List presented in Appendix B-1.

This AGREEMENT, including the following Schedules, constitutes the entire understanding and agreement between the Parties. This AGREEMENT may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

Schedule A: General Terms and Conditions

Schedule B: Software License Agreement
Appendix B-1: System Feature List
Appendix B-2 Statement of Work

Schedule C: Software Maintenance Agreement
Appendix C-1 Statement of Work

Schedule D: Scope of Professional Services
Appendix D-1: Hardware Specifications
Appendix D-2: Preliminary Project Schedule

Schedule E: Schedule of Charges and Payments


Schedule F: Escrow Agreement

CONTRACTOR:


Name: Luke T. Gatchell
Title: Senior Vice President

Dated: 9/19/2015

COUNTY OF NEVADA:


Honorable Edward C. Scofield
Chair, Board of Supervisors

Dated: 10/13/15

Attest: 
Julie Patterson Hunter
Clerk of the Board

SCHEDULE A: GENERAL TERMS AND CONDITIONS

1.0 Definitions

- 1.1 *Acceptance*: The Software shall be considered accepted for all purposes upon the earlier of: (a) notification by County that the Software is in compliance with all requirements specified in this Agreement; (b) expiration of the Test Period if County fails to notify Contractor of any material nonconformity during that period; or (c) use of the Software by County in a production environment for at least thirty (30) days.
- 1.2 *Acceptance Certificate*: A certificate provided by the Contractor that is signed by the County confirming the Acceptance of each phase as defined within the Project Management Plan.
- 1.3 *Acceptance Plan*: That document, delivered as a component of the Implementation Plan document, that defines and describes the acceptance tests and conditions which define Acceptance.
- 1.4 *Agreement* – This Agreement, all schedules and exhibits thereto, and any and all subsequent duly executed amendments thereto.
- 1.5 *Authorized Representative*: The person or persons authorized by County to work with Contractor to implement changes to the Software, submit Software issues to Contractor to resolve, and authorize the Contractor to make changes to the list of Users who can use the Software.
- 1.6 *Compliance Update*: A change made to the Software to reflect a mandated change in the applicable law.
- 1.7 *Computer System*: The computer processor(s), random access memory, disk subsystem, network software, Database Software, operating system software, and other hardware or software components or programs that are used in conjunction with the Licensed Software.
- 1.8 *Confidential Information* – Copyrights, Trade Secrets, Technical Information, Technology, and any and all other confidential and/or proprietary information provided by one Person ("Discloser") to another Person ("Recipient") pursuant to this Agreement or otherwise, relating to, among other items, the research, development, products, processes, business plans, customers, finances, suppliers, and personnel data of or related to the business of Discloser, including, without limitation, the Software and all Documentation. Confidential Information shall also include all "non-public personal information" as defined in Title V of the Gramm-Leach-Bliley Act (15 U.S. C. Section 6801, et seq.) and the implementing regulations thereunder (collectively, the "GLB Act"), as the same may be amended from time to time. Confidential Information does not include any information: (1) Recipient knew before Discloser provided it; (2) which has become publicly known through no wrongful act of Recipient; (3) which Recipient developed independently, as evidenced by appropriate documentation; or, (4) of which Recipient becomes aware from any third Person not bound by non-disclosure obligations to Discloser and with the lawful right to disclose such information to Recipient. Notwithstanding the foregoing, specific information will not be deemed to be within the foregoing exceptions merely because it is contained within more general information otherwise subject to such exceptions.
- 1.9 *Copyrights* – copyrighted and copyrightable materials, whether or not registered, published, or containing a copyright notice, in any and all media, and further including, without limitation, any and all moral rights and corresponding rights under international agreements and conventions, all Derivatives thereof, and any and all applications for registrations, registrations, and/or renewals of any of the foregoing.
- 1.10 *Customization*: Any improvement, derivation, extension or other change to the Software made by Contractor at the request of the County, including any that result from the joint

efforts or collaboration of Contractor and County. Contractor may, from time to time, incorporate Customizations into the Software as "Enhancements."

- 1.11 *Data:* All data entered or used by County in order to use the Software, including but not limited to user account data and the data for which the Software is designed to store, manipulate, analyze and report in performing its functional requirements.
- 1.12 *Data Conversion Plan:* The formal plan to be prepared by Contractor with County support that identifies the data conversion elements: schedule, information, personnel, and any other items agreed upon as integral to the conversion of existing systems data to the configured databases by the County's Project Manager and the Contractor's Project Manager.
- 1.13 *Database Software:* Relational database management systems (RDMS), such as Microsoft SQL Server, Oracle, or similar Third-Party Software that is utilized by the Software to store County data on a disk sub-system as part of the operation of the Software.
- 1.14 *Defective Work:* Work that (i) is unsatisfactory, faulty, or deficient, (ii) does not conform to the Statement of Work, (iii) does not meet the requirements of any inspection, test, or approval referred to in the Acceptance Criteria, or (iv) does not meet or exceed the requirements specified in this Agreement.
- 1.15 *Deliverables:* Those components, milestones, and/or materials, including, without limitation, the Software, Documentation, Maintenance Modifications, and Enhancements to be completed by one Party and delivered or otherwise provided to the other Party in accordance with the terms of this Agreement and/or an effective Maintenance Agreement. Deliverables can mean either Deliverables required from Contractor ("Contractor Deliverables") or Deliverables required from County ("County Deliverables").
- 1.16 *Derivatives* – any and all adaptations, enhancements, improvements, modifications, revisions, or translations, whether to Intellectual Property or otherwise.
- 1.17 *Documentation:* Standard technical publications relating to use of the Licensed Software or Programs, such as reference, installation, administrative, maintenance, and programmer manuals, provided by Contractor to County, all of which are made available to County by Contractor by either hard copy or electronic delivery.
- 1.18 *End User:* Any employee(s), affiliate(s), agent(s), or representative(s) of the County, or any other person under the direction or control of the County that uses the Software to perform certain functions or tasks as required by the County.
- 1.19 *Enhancement:* A change or additions, other than maintenance modifications, to Software and related Documentation, including, without limitation, all new releases, that improve functions, add new functions, or significantly improve performance by changes in system design or coding; *provided, however,* that Enhancements do not include any New Product.
- 1.20 *Error:* Either (a) any error or defect resulting from an incorrect functioning of Software caused by the Software's failure to meet Specifications therefor; or, (b) any error or defect resulting from an incorrect or incomplete statement in Documentation caused by the failure of the Software and/or the Documentation to meet the Specifications therefor.
- 1.21 *Error Correction (may also be referred to as "Patch"):* Either (a) a temporary repair or replacement or other modification or addition that, when made or added to the Software, corrects an Error. or (b) a procedure or routine that, when observed in the regular operation of the Software, eliminates the practical adverse effect of an Error on the County. Temporary repair may be made permanent and released in Subsequent Releases of the Software.
- 1.22 *Explanatory Documentation:* Documents that describe the escrow contents and explain how to compile and load the software program in the event that the escrow materials are released to the County.

- 1.23 *Final Acceptance Certificate:* County's final written acceptance of the Programs and services to be provided under this Agreement.
- 1.24 *Hardware:* The Computer System components and equipment, other than the Licensed Software and Third-Party Software.
- 1.25 *Local Hardware:* The computer processing device(s) on which the Software is installed, each device of which is auditable by and reported to Contractor. Local Hardware may include physical and/or virtual servers.
- 1.26 *Implementation Plan:* That deliverable, provided by Contractor, that includes the specific tasks and deliverables required for the implementation of the identified work, and the specific dates for completion thereof. The Implementation Plan shall also include the Test Plan and Acceptance Plan for the identified work.
- 1.27 *Installation:* Means all preparation, processing, and other tasks necessary to install the Database Software, Software, or Third-Party Software on the Local Hardware to make it operational.
- 1.28 *Intellectual Property:* Trade Secrets, Copyrights, Derivatives, Documentation, Patents, Software, Technical Information, Technology, and any and all proprietary rights relating to any of the foregoing.
- 1.29 *Licensed Software:* The proprietary computer software program(s) identified in the Software License and all related materials, Documentation, all corrections, patches or updates thereto, and other written information received by County from Contractor, whether in machine-readable or printed form.
- 1.30 *Maintenance Release:* A Subsequent Release of the Licensed Software that includes Error Corrections and/or Updates.
- 1.31 *New Product* – any change or addition to Software and/or related Documentation that: (1) has a value or utility separate from the use of the Software and Documentation; (2) as a practical matter, may be priced and offered separately from the Software and Documentation; and, (3) is not made available to Contractor's licensees generally without separate charge.
- 1.32 *Notice of Completion:* A written notice from Contractor stating that delivery, installation and implementation of all Licensed Software, and/or Third-Party Software at County's site has been completed and that the Software is available for acceptance testing.
- 1.33 *Object Code:* Machine readable compiled form of Licensed Software provided by Contractor.
- 1.34 *Party:* Either Contractor or County, and "Parties" means both of the same.
- 1.35 *Patents:* All patentable materials, letters patent, and utility models, including, without limitation, all reissues, continuations, continuations-in-part, renewals, Derivatives, and extensions of any of the foregoing and all applications therefor (and patents which may issue on all such applications).
- 1.36 *Professional Services:* Any Installation, Customization, Training, Consulting, Support Service(s), and other similar service(s) performed by Contractor under the terms of this Agreement.
- 1.37 *Project Management:* The process of planning, scheduling, and controlling certain activities in order to meet project objectives.
- 1.38 *Project Management Plan:* A comprehensive plan for execution of the Project to implement the Software, which includes subsidiary plans that include the Project Schedule, List of Deliverables, Data Conversion Plan, Issue Management Plan, Interface Specifications, Training Plan, Risk Management Plan, Resource Plan, Communication Plan, Change Control Plan, Document Control Plan, Acceptance Plan, and Quality Management Plan.

- 1.39 *Programs*: The Software, as written by the Contractor and approved Third Party Vendors, integrated by Contractor and delivered to the County, in the form of executable code providing fully compatible communication with the Contractor's licensed software engine, to operate on the Hardware for purposes of accomplishing the functional capabilities as set forth in this Agreement.
- 1.40 *Release*: Means a version of the Software denoted by the number to the left of the decimal point (as compared to a change in the number to the right of the decimal point). For example, 4.x and 4.1 are the same Release; 4.x and 5.x are two different Releases. Releases include major Enhancements and the incorporation of any Version developed after the Release immediately preceding the most current Release.
- 1.41 *Seat*: A unique physical device, such as a terminal, microcomputer, or similar computing device that is part of the Computer System at which an End User has access to some or all of the Software or Third-Party Software.
- 1.42 *Site*: A single physical location and single database for which the Software is licensed. The number of Sites for which County is licensed to use the Software shall be specified in the applicable Schedule.
- 1.43 *Software*: The software program(s) identified on Schedule E, including Error Corrections, Compliance Updates, and new Versions and Releases of such program(s) that may be provided under this Agreement. The term "Software" excludes any Third-Party Software.
- 1.44 *Software Acceptance Date*: The date of final acceptance of the System by County as described in Schedule D of this Agreement.
- 1.45 *Specifications*: The functional, operational, and performance characteristics of the Licensed Software as described in Contractor's current published product descriptions and technical manuals.
- 1.46 *Subsequent Release*: A release of the Licensed Software for use in a particular operating environment which supersedes the Licensed Software. A Subsequent Release is offered and expressly designated by Contractor as a replacement to a specified Licensed Software product. A Subsequent Release will be supported by Contractor in accordance with the terms of this Agreement. Multiple Subsequent Releases may be supported by Contractor at any given time.
- 1.47 *Support Services*: Those services provided by Contractor as described in Schedule C: Software Maintenance Agreement.
- 1.48 *System*: The Licensed Software and associated interfaces furnished by Contractor for the Client and the Equipment on which such software operates, the combination of which shall satisfy the requirements set forth in the Specifications.
- 1.49 *System Cutover*: The point at which the County approves Contractor's initiation of the System, or a phase of the project, to a production status and the County may terminate use of the current software system it uses to perform the same business functions.
- 1.50 *Test Period*: The thirty (30) day period following: (a) County's receipt of the Notice of Completion or (b) in the case where County requests or causes a material delay in the performance of implementation services, the date set forth in the Implementation Plan for commencement of acceptance testing.
- 1.51 *Third Party Software*: Software utilized in tandem with the Licensed Software, and necessary to enable the Licensed Software to perform the Specifications, supplied by Contractor with the Licensed Software or acquired directly by County on the advice of Contractor.
- 1.52 *Trademarks* – trademarks, service marks, logos, trade names, and/or domain names including, without limitation, any and all common law and/or statutory rights therein and any and all applications to register and/or registrations therefor, anywhere within or outside of the Territory.

- 1.53 *Update:* A revision of the Software released by Contractor to its end user customers receiving maintenance and support services from Contractor. "Update" does not include the release of a new product or added features for which Contractor generally imposes a separate charge.
- 1.54 *Upgrade:* Either an enhancement to the Licensed Software code to add new features or functions to the Licensed Software or software programming revisions containing corrections to Errors, Defects and Malfunctions that have been reported by users or discovered by the Contractor. Upgrades include revisions that are made to the Software to conform to a newer version of the operating system software.
- 1.55 *Users:* People who, in accordance with the terms of this Agreement, are authorized by County's Authorized Representatives to access the Software for purposes of performing data entry, analysis, or reporting, or for providing technical support.
- 1.56 *Version:* A new version of the Software that includes minor Enhancements, Error Corrections, and/or Compliance Updates, which is indicated by a different number to the right of the decimal point (e.g., "4.1" and "4.2" represent different Versions of Release "4").
- 1.57 *Warranty Period:* The twelve (12) month period commencing on the Software Acceptance Date during which reported Errors, Defects and Malfunctions for Licensed Software or Programs products are corrected by the Contractor without charge to the County.
- 1.58 *Work or Project:* The implementation, assembly, installation, optimization, and integration as required by this Agreement, whether completed or partially completed, including all labor, materials, and services provided, or to be provided by Contractor to fulfill Contractor's obligations hereunder. The Work, therefore, constitutes all of the requirements for providing the Programs and all services under this Agreement to the County.

2.0 Notices

This Agreement shall be managed and administered on behalf of the respective parties by the individuals identified below. All invoices shall be submitted to and approved by the County's representative so identified. In addition to personal service, all notices may be given to County and to Contractor by first class mail addressed to said party and shall be deemed received the fifth (5th) day following the date of mailing or the earlier date of personal service, as the case may be.

Contractor:
Teleosoft Inc.
1700 7th Ave, Suite 150
York, PA 17403
Contact Person:
Luke Gatchell
Senior Vice President

1-800-858-5563

Luke.gatchell@teleosoft.com

County of Nevada:
Sheriff's Office
950 Maidu Avenue
Nevada City, California 95959
Contact Person:
Shannan Moon
Sheriff's Captain

530-265-1383

Shannan.moon@co.nevada.ca.us

3.0 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. Permits and/or licenses shall be obtained and maintained by Contractor without additional compensation. Contractor's personnel, when on the County's

premises, shall comply with the County's regulations regarding security, safety and professional conduct, including but not limited to Nevada County Security Policy (NCSP) 102 regarding data security.

4.0 Contractor as Independent

In providing services hereunder, Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as agents or employees of County.

5.0 Indemnification

5.1 General

Contractor shall defend, indemnify and save harmless the County, its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, judgments damages, losses or expenses (including, without limitation, defense costs and attorney fees of litigation) 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 liabilities, claims, demands, judgments damages, losses or expenses to the extent resulting from the negligence or willful misconduct of the County. With respect to any and all liabilities, claims, demands, judgments damages, losses or expenses arising from the joint or concurrent negligence of Contractor and the County, each party shall assume responsibility in proportion to the degree of its respective fault as determined by a court of competent jurisdiction. Contractor's obligation to indemnify County is contingent upon the County giving prompt notice to Contractor of any claims, permitting Contractor to defend, compromise, or settle any claim, and cooperate with the defense of any such claim. Contractor shall notify the County immediately in the event of any accident or injury arising out of or in connection with this Agreement.

5.2 Intellectual Property

- a. Notwithstanding any language contained herein to the contrary, Contractor warrants that the Software does not infringe upon or violate any patent, copyright, trade secret, contract right, or any other proprietary right of any third party within the United States. Except as otherwise provided, Contractor, at its own expense, will defend, indemnify and hold County harmless from any claim made or threatened or any suit or proceeding brought against County insofar as it is based on an allegation that the Software furnished by Contractor under this Agreement infringes any copyright or patent in existence on the date the Software was initially provided to County, but only if County does all of the following:
 - i. notifies Contractor of that action in writing within a reasonable period of time (such that Contractor suffers no prejudice to its rights);
 - ii. gives Contractor the right to control and direct the defense and settlement of that action;
 - iii. makes no compromise, settlement, or admission of liability; and
 - iv. provides reasonable assistance and cooperates in the defense of that action at Contractor's reasonable expense.
- b. Subject to the limitations set forth in this Agreement, Contractor shall pay any resulting damages, costs and expenses finally awarded to a third party, including, but not limited to, reasonable legal fees, incurred as a result of the Software's infringement of a copyright or patent right. Contractor will have no responsibility for the settlement of any claim, suit, or proceeding made by County without Contractor's prior written approval.
- c. If the Software is held to infringe, and the use of the Software is enjoined, Contractor,

at its expense, will do one of the following:

- i. procure for County the right to continue using the infringing or potentially infringing Software;
- ii. replace the infringing or potentially infringing Software with non-infringing software; or
- iii. modify the infringing or potentially infringing Software so that it becomes non-infringing.
- iv. If none of the foregoing remedies are commercially feasible, Contractor will return to County the initial license fee actually paid by County to Contractor under this agreement, and upon such a return, any licenses granted to County for the Software shall terminate immediately.

6.0 Insurance

During the performance of this Agreement, Contractor shall maintain in full force and effect the following insurance coverages:

- 6.1 Commercial General Liability Insurance: (County Resolution No. 90674) Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following:
 - a. Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount of \$1,000,000.
 - b. An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from Seller's product(s) and/or the services provided under this contract;
 - c. A provision that said insurance shall be primary and other insurance maintained by the County shall be excess only and not contributing with Contractor's insurance; and
 - d. A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium). Upon receipt of such notice, County will provide Contractor in writing a notice that Contractor has until the effective date of termination, change in coverage protection, or reduction in coverage limits to secure new insurance coverage as required herein, and that Contractor's failure to do so will constitute default under the terms of this Agreement.
- 6.2 Data Processing Errors and Omissions Insurance: Contractor shall maintain either a professional liability or errors & omissions policy in an amount of no less than \$1,000,000, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.
- 6.3 Automobile Liability Insurance: (County Resolution No. 90676) For each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following provisions:
 - a. Liability protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the minimum amount of \$1,000,000.
 - b. An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided under this Agreement;
 - c. A provision that said insurance shall be primary and other insurance maintained by the Buyer shall be excess only and not contributing with Seller's insurance; and,

- d. A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium). Upon receipt of such notice, County will provide Contractor in writing a notice that Contractor has until the effective date of termination, change in coverage protection, or reduction in coverage limits to secure new insurance coverage as required herein, and that Contractor's failure to do so will constitute default under the terms of this Agreement.
- 6.4 Worker's Compensation: (County Resolution No. 90674) Before commencing to utilize employees in providing Services under this Agreement, Contractor warrants that it will comply with the provisions of the California Labor Code, requiring Contractor to be insured for worker's compensation liability or to undertake a program of self-insurance therefor. CONTRACTOR shall maintain said policy or self insurance as required by law, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to the County.
- 6.5 Miscellaneous Insurance Provisions: (County Resolution No. 90675) All policies of insurance required by this Agreement shall remain in full force and effect throughout the life of this Agreement and shall be payable on a "per occurrence" basis unless the County specifically consents to "claims made" coverage. If the County does consent to "claims made" coverage and if Contractor changes insurance carriers during the term of this Agreement or any extensions hereof, then Contractor shall carry prior acts coverage.

At all times, Contractor shall keep and maintain in full force and effect throughout the duration of this Contract, policies of insurance required by this Contract which policies shall be issued by companies with a Best's Rating of B+ or higher (B+, B++, A-, A, A+ or A++), or a Best's Financial Performance Rating (FPR) of 6 or higher (6, 7, 8 or 9) according to the current Best's Key Rating Guide, or shall be issued by companies approved by the County. In the event the Best's Rating or Best's FPR shall fall below the rating required by this paragraph, Contractor shall be required to forthwith secure alternate policies which comply with the rating required by this paragraph, or be in material breach of this Agreement. Failure to provide and maintain the insurance policies (including Best's ratings), endorsements, or certificates of insurance required by this Agreement shall constitute a material breach of this agreement (herein "Material Breach"); and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Agreement, or both.

7.0 Ownership of Data

County is and 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 whether or not performance under this Agreement is completed or terminated prior to completion, except for computer software which shall be owned or licensed as provided in this Agreement. Contractor shall not release any materials under this section without prior written approval of County.

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 provided in this Agreement or except as determined at the sole discretion of the County. County shall have the unrestricted authority to publish, disclose, distribute, and otherwise use in whole or part, any reports, data, documents or other materials prepared under this Agreement, except for computer software, which shall be subject to the restrictions set forth in this Agreement.

8.0 Assignment and Subcontracting

Except as specifically provided herein, the rights, responsibilities, duties and Services to be performed under this Agreement are personal to the County and Contractor. They may not be

transferred, subcontracted, or assigned without the prior written consent of both parties.

Contractor shall cause and require each transferee, subcontractor and assignee to comply with the insurance provisions set forth herein at to the extent such insurance provisions are required of Contractor under this Contract. Failure of Contractor to so cause and require such compliance by each transferee, subcontractor and assignee shall constitute a Material Breach of this Agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which COUNTY may elect to suspend payments hereunder, or terminate this Agreement, or both.

9.0 Confidentiality

The parties hereto acknowledge that information obtained about the other party pursuant to this Agreement may include confidential and proprietary information (hereinafter the "Confidential Information"). Each party agrees not to use Confidential information except in accordance with the terms of this Agreement or any other agreements between the parties, and not to disclose Confidential Information to any third parties without the prior written consent of the other party, except as required by law. The parties agree that the Confidential Information does not include any information which, at the time of disclosure, is generally known by the public. County shall make no attempt to reverse compile, disassemble, or otherwise reverse engineer the Software or any portion thereof. These obligations of confidentiality shall survive termination of the License and this Agreement.

10.0 Warranty

Contractor warrants the Software to operate in all material respects as specified in the Contractor-provided documentation. If Contractor makes or has made claims in response to specifications listed in a County solicitation, then the Contractor warrants the Software to operate in all material respects as claimed in response to the solicitation. Contractor warrants that the Software does not contain any disabling devices that would allow Contractor to terminate operation of the Software. Contractor further warrants that, to the best of its knowledge, the Software does not contain any viruses. Contractor warrants as follows for all software customization made by Contractor for the County: (1) All software customization will continue to be supported by Contractor under its maintenance agreement as defined in Schedule C; (2) All software customizations will be preserved and will remain functional in any future software versions, revisions, or updates provided by Contractor; (3) All future software versions, revision, or updates provided by Contractor will not cause the County to incur any additional cost as a result of the software customizations. These provisions shall apply for as long as the County is covered by the Contractor's maintenance agreement.

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES OF CONDITIONS, EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM THE COURSE OF DEALING OR USAGE OF TRADE. CONTRACTOR DOES NOT REPRESENT OR WARRANT THAT THE SOFTWARE WILL OPERATE ERROR-FREE OR UNINTERRUPTED AND THAT ALL PROGRAM ERRORS IN THE SOFTWARE CAN BE FOUND IN ORDER TO BE CORRECTED. NOR DOES CONTRACTOR MAKE ANY WARRANTIES REGARDING THE ACCURACY, RELIABILITY OR CURRENCY OF ANY INFORMATION CONTENT.

CONTRACTOR'S LIABILITY AND RESPONSIBILITY FOR ANY AND ALL CLAIMS, DAMAGES OR LOSSES ARISING FROM USE OF THE SOFTWARE BY COUNTY SHALL BE ABSOLUTELY LIMITED TO THE INSURANCE OCCURRENCE LIMIT OF \$1 MILLION. THIS LIMITATION OF CONTRACTOR'S LIABILITY SHALL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE. THE STATED EXPRESS WARRANTIES ARE IN LIEU OF ALL OBLIGATIONS OR LIABILITIES ON THE PART OF CONTRACTOR ARISING OUT OF OR IN CONNECTION WITH THE DELIVERY, USE, AND/OR

PERFORMANCE OF THE SOFTWARE.

Unless otherwise stated in the applicable Schedule, Contractor shall not be liable for, and County hereby assumes the risk of and shall indemnify and hold harmless Contractor against, any claim, injury, loss, damage, or expense (including attorneys' fees), either direct or indirect, incurred, made, or suffered by County in connection with or in any way arising out of the furnishing, performance, or use of services provided by any third party contracted by County to perform services in connection with the Software.

11.0 Nondiscrimination and Compliance with Laws

In providing Services hereunder, Contractor agrees to comply with all applicable laws and regulations, including but not limited to those relating to nondiscrimination and civil rights. Contractor agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes and unemployment compensation and workers' compensation premiums. Contractor shall have and keep current at all times during the term of this contract all licenses and permits required by law.

12.0 Prior Nevada County Employment (County Resolution No. 03-353)

Effective July 22, 2003, it is the policy of the County of Nevada that former members of the Board of Supervisors, a former CEO, or a former Purchasing Agent, for a period of twelve (12) months following the last day of employment, shall not enter into any relationship wherein that former employee or former Board member receives direct remuneration from a legal entity that, during the last twelve (12) months of said employment or Board member's service, entered into a contract with, or received a grant from the County of Nevada. Provided however, that this prohibition shall not apply to any employee that did not personally approve a contract with or grant to said legal entity during the last twelve (12) months of said employment, and shall not apply when the Board of Supervisors did not approve a contract with or grant to said legal entity during the last twelve (12) months of said Board member's service.

A violation of this policy shall subject Contractor to all of the remedies enumerated in said resolution and as otherwise provided in law, which remedies shall include but not be limited to injunctive relief, cancellation and voiding of this contract by COUNTY, a return of grant money, a cause of action for breach of contract, and entitlement to costs and reasonable attorney fees in any action based upon a breach of contract under this provision.

13.0 Intellectual Property

County acknowledges that Contractor owns all right, title and interest in and to the Software, the Documentation, including System Administration and End User Manuals, and other information relating thereto (including all customizations and modifications developed for County), including all patents, trademarks, copyrights, trade secrets and other intellectual property rights. No rights, other than those granted pursuant to the License, are transferred to County.

14.0 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 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. This covenant shall not prohibit Contractor from offering the same or similar Software and Services to other entities.

15.0 Responsibilities of County

County shall provide all information reasonably necessary to Contractor in performing the Services provided herein. Contractor shall not be responsible for any delays caused by County's failure to provide information or failure to perform obligations.

16.0 Technology Life Expectancy

County understands, acknowledges, and agrees that the technology upon which the Hardware, Software, and Third-Party Software is based changes rapidly. County further acknowledges that Contractor will continue to improve the functionality and features of the Software to improve legal compliance, accuracy, functionality, and usability. As a result, Contractor does not represent or warrant that the Hardware, Software, and/or Third-Party Software provided to County under this Agreement or that the Computer System recommended by Contractor will function for an indefinite period of time. Rather, Contractor and County may, from time to time, analyze the functionality of the Hardware, Software, Third-Party Software, and Computer System in response to changes to determine whether upgrades are advised. Contractor shall, for the duration of the maintenance period covered by this Agreement, and at no additional cost to County, maintain the Software to be compatible with Microsoft-supported operating systems and databases. County upgrades may include, without limitation, the installation of a new Release, additional disk storage and memory, and workstation and/or server upgrades. County upgrades may also include the installation and/or removal of Third-Party Software. County is solely responsible for all costs associated with such future resources and upgrades,

17.0 Term and Termination

17.1 The Term of this Agreement shall commence upon execution by both parties, and shall continue until all Tasks and Deliverables have been completed unless terminated earlier in accordance with this section. The Terms of the Software Maintenance Agreement and Software Escrow shall be as described in the respective Schedules C and F, as applicable.

17.2 Termination by County

- a. 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 the failure of Contractor to fulfill the obligations hereunder. Upon receipt of notice, Contractor shall immediately discontinue all services affected (unless the notice directs otherwise), and deliver to County all data, estimates, summaries, reports, and all other records, documents or papers as may have been accumulated or produced by Contractor in performing services under this Agreement, whether completed or in process.
- b. For Convenience: County may terminate this Agreement upon thirty (30) days written notice without cause. Upon receipt of such notice, Contractor shall promptly cease work and notify County as to the status of its performance. Notwithstanding any other payment provision of this Agreement, County shall pay Contractor for 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 information as is necessary to determine the mutually agreeable reasonable value of the services rendered by Contractor. The foregoing is cumulative and shall not affect any right or remedy which County may have in law or equity.
- c. For Cause: Should Contractor default in the performance of this Agreement or materially breach any of its provisions, the County may elect to immediately suspend payments or terminate the contract, or both, without notice.

17.3 Termination by Contractor

- a. For Nonpayment: Should County fail to pay Contractor all or any part of the payment set forth in Schedule E, 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.
- b. For Cause: Should County default in the performance of this Agreement or materially breach any of its provisions, Contractor, at Contractor's sole option, may terminate this Agreement upon thirty (30) days written notice.

17.4 Disentanglement

If directed by County, Contractor shall cooperate with County and County's other vendors and contractors to ensure a smooth transition at the time of termination of this Agreement, regardless of the nature or timing of the termination. Contractor shall cooperate with County to accomplish a complete transition of the services being terminated to County or to any replacement provider designated by County, without any interruption or adverse impact on those services or any other services provided by third parties. Contractor shall fully cooperate with County and any new service provider and otherwise promptly take all commercially reasonable steps, including but not limited to providing to County or any new service provider all requested information or documentation required to assist County in effecting a complete transition to the new service provider, provided however, the Contractor shall not be obligated to disclose its Intellectual Property to any third party. Contractor shall provide all information or documentation regarding the services to be transitioned, including but not limited to data conversion tables, client files, and interface specifications. Contractor shall provide for the prompt and orderly conclusion of all work required under the Agreement, as County may direct, including completion or partial completion of projects, documentation of work in process, and other measures to assure an orderly transition to County or the County's designee. All Contractor work done as part of the Disentanglement shall be performed by Contractor and will be reimbursed by the County on a time and materials basis at the Contractor's then current hourly rate for technical services applicable to this Contract. Contractor's obligation to provide the Services shall not cease until the earlier of the following: a) the Disentanglement is completed to the County's reasonable satisfaction, or b) twelve (12) months after the expiration of the then-current Term of the Agreement.

17.5 Return, Transfer and Removal of Data and other Assets

- a. Upon termination of this Agreement, Contractor shall return to County all County-furnished assets in Contractor's possession.
- b. Upon termination of this Agreement, Contractor shall ensure that any and all of County's data maintained by Contractor is extracted in a commercially recognized format acceptable to County prior to the termination date or the completion of the Disentanglement period, whichever is later, and that said data is securely transmitted to County or County's designee.

17.6 Fiscal Insolvency/Source Code Escrow: Prior to commencing work on the Project under this Agreement, Contractor shall open escrow with an Escrow Holder that is acceptable to the Parties, pursuant to an Escrow Agreement which indemnifies Escrow Holder, which requires that Contractor deposit Source Codes for the Software and any updates thereto which at a minimum shall occur with each software release during the course of the Term, as extended, and which authorizes Escrow Holder to notify County of any such deposits. Said Escrow Agreement shall require that, in the event Contractor ceases conducting business in the normal course, admits its insolvency, or makes an assignment for the benefit of creditors; or becomes the subject of any judicial or administrative proceedings in bankruptcy, receivership, or reorganization, and such proceeding is not dismissed within ninety (90) days after it is commenced, directs Contractor to immediately authorize Escrow Holder to release the Source Code and any and all updates for the Project to County. The cost of the Software Escrow shall be paid by the County.

17.7 Renegotiation Option: In view of the fact that it is unknown how long the products and services will be employed by County and that County will require ongoing maintenance and support of the products for as long as the system is operational, therefore after completion of the initial term of the contract including any extensions and renewals, County and Contractor may renegotiate the contract upon mutual agreement of the parties.

17.8 Effect of Termination: Contractor shall cooperate with County to ensure a smooth

transition at the time of termination of this Agreement, regardless of the nature or timing of the termination. Contractor shall cooperate with County to ensure that any and all of County's data maintained in the software licensed to the County by Contractor is extracted in a commercially recognized format acceptable to County prior to the termination date, and that said data is securely transmitted to County. The termination of this Agreement shall not affect the County's rights to the Software pursuant to Schedule B (License Agreement) provided that County has paid all Software license fees set forth in the Schedule E and County is not in breach of any provision of this Agreement or the Schedules. If County terminates this Agreement prior to the payment of all Software license fees, or if County is in breach of this Agreement, County shall immediately cease using the Software and shall either destroy or return the original and all copies, in whole or in part, in any form, of the Software and related materials. County shall certify such action in writing to County within one (1) month after the termination date. Obligations and rights in connection with this Agreement which by their nature would continue beyond the termination of this Agreement, including without limitation, Section 11 of this Schedule A, shall survive termination of this Agreement.

18.0 Informal Dispute Resolution

If a dispute, controversy, or claim arises between the parties relating to this Agreement, the parties shall promptly notify one another of the dispute in writing. Each party shall promptly designate a representative to resolve the dispute. The representatives shall meet within ten (10) days following the first receipt by a party of such written notice and shall attempt to resolve the dispute within fifteen (15) days.

19.0 Compliance with Public Records Law

Contractor understands that, except for disclosures prohibited in Section 8, Confidentiality, County must disclose to the public upon request any records it receives from Contractor. Contractor further understands that any records that are obtained or generated by Contractor under this contract, except for records that are confidential under Section 8, Confidentiality, may, under certain circumstances, be open to the public upon request under the California open records law. Contractor agrees to contact County immediately upon receiving a request for information under the open records law and to comply with County's instructions on how to respond to the request.

20.0 Books of Record and Audit Provision

Contractor shall maintain complete records relating to this Agreement for a period of five (5) years from the completion of Services hereunder. Said records shall be maintained in sufficient detail to establish the accuracy of charges for services provided and corresponding calculations of any sales tax payable.

Contractor shall permit County to audit said records as well as such related records of any business entity controlled by Contractor. Said audit may be conducted on Contractor's premises or at a location designated by County, upon fifteen (15) days notice. Contractor shall promptly refund any moneys erroneously charged and shall be liable for the costs of audit if the audit establishes an over-charge of five percent (5%) or more of the total Contract amount.

21.0 Taxes

With the exception of sales or use taxes which may be levied by the State of California for software or related materials, 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. Similarly, Contractor shall not be responsible for paying any taxes on County's behalf, and should Contractor be required to do so by state, federal, or local taxing agencies, County agrees to promptly reimburse Contractor for the full value of such paid taxes plus interest and penalty, if any (The fees set forth in Schedule E do not include any amounts for sales taxes, as it is anticipated that all software and related materials will be provided by Contractor by electronic delivery.)

22.0 Jurisdiction and Venue

This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Nevada County, California.

23.0 Compliance with Applicable Laws

The Contractor shall comply with any and all federal, state and local laws, codes, ordinances, rules and regulations which relate to, concern or affect the Services to be provided by this Contract.

24.0 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 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.

25.0 Expert Witness

If requested by County, Contractor agrees to serve as an expert witness for County in any third party action or proceeding arising out of this Agreement.

26.0 Section Headings

The headings of the several sections of this Schedule A and other Sections which comprise this Agreement, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

27.0 Severability

If any one or more of the provisions of this Agreement shall for any reason be held to be invalid 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.

28.0 Amendment and Waivers

Any term or provision of this Agreement may be amended, and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a writing signed by the Party to be bound thereby. The waiver by a Party of any breach hereof or default hereunder shall not be deemed to constitute a waiver of any other breach or default. The failure of any Party to enforce any provision hereof shall not be construed as or constitute a waiver of the right of such Party thereafter to enforce such provision.

29.0 Force Majeure

Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile action, or catastrophic natural event. Should there be such an occurrence that impacts the ability of either party to perform their responsibilities under this Agreement, the nonperforming party shall give immediate written notice to the other party to explain the cause and probable duration of any such nonperformance.

30.0 Publicity

County authorizes Contractor to use County's name in its list of customers. The parties agree that either party or both may issue a mutually acceptable news release regarding County's use of the applicable Software and Support Services. Each party's approval of such news release will not be

unreasonably withheld or delayed. Once a press release has been issued, Contractor may publicly refer to County (by name only) as being a customer of Contractor, and only in relation to this Agreement except as otherwise authorized by County.

SCHEDULE B—SOFTWARE LICENSE AGREEMENT

1.0 Agreement to License

This Agreement provides for the license of Software by Contractor as Licensor to County as Licensee, in accordance with the terms and conditions of this Agreement. Contractor shall license to County and County shall license from Contractor, the Software as described in Schedule E: Schedule of Charges and Payments.

2.0 Grant of License

Unless this Agreement is terminated in accordance with the provisions of Schedule A: General Terms and Conditions, Contractor grants to County a perpetual, nontransferable (except as otherwise provided in Section 8 of Schedule A, "Assignment and Subcontracting"), revocable and nonexclusive license for use of the Software (machine readable version) and Documentation therefor in accordance with the terms and conditions of this Agreement. Such use shall be limited to County only. Title to the Software remains in Contractor, which shall be the sole and exclusive owner of all rights to Patents, Copyrights, Trademarks, Trade Secrets, and all other Intellectual Property rights in the Software and in all Maintenance Modifications, Derivatives and Enhancements thereto. Any data supplied by the County shall remain the property of the County.

3.0 Right to New Versions

If Contractor creates a new Version of the Software, Contractor will provide that new Version to County at no additional charge through the Maintenance and Support agreement provisions.

4.0 Third Party Software

County shall execute all documents reasonably requested by Contractor and will abide by all reasonable requirements with respect to Third Party Software licensed or sublicensed by Contractor to County hereunder, or necessary to the performance of the Software hereunder in accordance with the Specifications, and County agrees to maintain in effect all required licenses and approvals of all applicable third persons.

5.0 Acceptance Testing

During the Test Period, County may test the Software to verify that it conforms in all material respects to the Documentation. If the Software does not so conform, County shall promptly notify Contractor in writing, and Contractor shall work diligently to correct all priority 1 nonconformities free of charge to County.

6.0 Local Hardware

6.1 In order to be executed and to perform in a satisfactory manner, the Software must be installed on Local Hardware that provides sufficient network, communications, and computer resources to support the anticipated number of End Users. The Local Hardware must be properly configured, installed, managed, and maintained. County is solely responsible for ensuring that the Local Hardware meets these standards and for ensuring that its Local hardware is installed according to the schedule mutually agreed by both Parties.

6.2 The Local Hardware and third party technologies required to properly execute the Software may change over time. Additional network, communications or computer resources may be required to enable Customer to install and use enhancements, promotions or new Versions of the Software. Contractor will make best efforts to give the County a minimum of 180 days notice of additional third party software products that may be required, and provide information to allow County to evaluate the impact of the enhancement, promotion or new Version on network performance and to plan for network upgrades.

7.0 Rights of County as Licensee

- 7.1 County may install the Software on the Local Hardware and may, upon prior written notice to Contractor, move the Software to different Local Hardware, or, in the event of a disaster, run the Software on back-up Local Hardware.
- 7.2 If the Software is licensed on a Seat basis, County may use and execute the Software only on the licensed number of Seats designated on Schedule E: Schedule of Charges and Payments. Unless otherwise provided on Schedule E, County must purchase a license for each Seat that has access to the Software.
- 7.3 If the Software is licensed on a Site basis, County may use and execute the Software only in connection with the operations of the Site(s). Unless otherwise provided in Schedule E, County must purchase a license for each site for which the Software is used.
- 7.4 County may make copies of the Software for backup and archival purposes only, provided that (a) no more than two (2) copies of the Software are in existence at any one time, and (b) Contractor's copyright and other proprietary legends are reproduced on each copy. County shall keep appropriate records of the number and location of all copies and make such records available to Contractor upon request. All copies that are made by County shall be the property of Contractor.
- 7.5 County may make copies of the Documentation for County's internal use only, provided that Contractor's copyright and other proprietary legends are reproduced on each copy.
- 7.6 County may permit access to the Software to third parties for the purpose of loading data and/or generating reports, subject to execution by said parties of a non-disclosure agreement to be provided by Contractor.

8.0 Restrictions

In addition to other restrictions set forth in this Agreement, County may not:

- 8.1 Use, copy, modify or distribute the Software (electronically or otherwise) or any copy, adaptation, transcription, or merged portion thereof except as expressly authorized under this Agreement;
- 8.2 Use the Software for any purpose for the benefit of any third party (including any body of government other than the entity that executes this Agreement) in a commercial, retail, service bureau, or similar enterprise;
- 8.3 Translate, reverse engineer, decompile, recompile, update, enhance, or create derivations of all or any part of the Software, or merge any Software with any other software or program, including, without limitation, the structure and sequence of any database and/or database files, including those created by County under this Agreement;
- 8.4 Without prior written approval of Contractor, modify or manipulate the data maintained in the standard database structure schema that is documented as part of the Software, except by those provided in the Software;
- 8.5 Without prior written approval of Contractor, modify, extend, or add tables, including, without limitation, the structure and sequence of any database or database files that are used by the Software, including those created by or for County under this Agreement; or
- 8.6 Remove the labels or any proprietary legends from the Software or its Documentation.

9.0 Tools and Customizations

County shall not have any right to independently make changes to the underlying code of the Software. County may develop, and shall retain ownership of, hooks, interfaces, or similar tools for use with the Software, provided that the hook, interface or tool does not use any part of the Software or require any modification or alteration of the underlying code of the Software. Contractor shall own all right, title, and interest (including all associated intellectual property rights) in and to any Customizations to the Software.

10.0 Documentation

Contractor will provide documentation of the process and procedures for use of the Software, including all screens. Documentation will be embedded in the Software and accessible to End Users through a "Help" icon or menu.

11.0 Right to Audit

Contractor shall have the right, up to two (2) times per calendar year and within ten (10) days of Contractor's written request, during normal business hours and at times mutually agreed upon by the parties, to audit County's use of the Software to monitor compliance with this Agreement. If an audit reveals that County has exceeded the restrictions on use, County shall be responsible for the prompt payment to Contractor of any underpayment of license fees.

APPENDIX B-1 System Feature List

This Scope of Work document is provided for the Nevada County Sheriff's Office. It defines the CountySuite:Sheriff Software product, installation and configuration, training and support services. The details below are a summary of what is located in the full Software License Agreement and the Software Maintenance Agreement.

This includes:

Installation of the CountySuite:Sheriff web-based application on a single server with these modules:

ACCOUNTING

CHECK PRINTING

CIVIL ACTIONS (Complaint, Summons, Order, Subpoena, etc.)

PERSONAL PROPERTY (Levies, EWO, Possession, Seizure, Eviction)

REAL PROPERTY

TEMPORARY RESTRAINING ORDERS (TRO)

CIVIL BENCH WARRANTS

CHILD SUPPORT SERVICES

SCAN & ATTACH

MOBILE DEPUTY (10 Mobile Units)

SERVICES PUBLIC PORTAL

Data Migration from current system, including accounting data.

Perpetual, non-assignable, non-exclusive right and license to use.

Customization for the location (names of officials, addresses, logos, etc.)

Up to one week of personal Training.

Annual Maintenance & Support includes:

General help desk support.

Database maintenance.

Corrections, changes or workarounds for any defects.

All improvements, modifications and enhancements to purchased modules made available generally.

CountySuite:Sheriff is a web-based application which is installed on a single server, and is accessed via any standard web browser (Internet Explorer 8 or above is recommended). Microsoft Windows Server (2008 or above) and Microsoft SQL Server (2008 R2 or above) are required along with the appropriate licenses (not included).

Users are limited to employees of Nevada County, California (public-facing pages such as the listings for Real Estate sales would be an exception to this limitation). There is no per-user fee.

APPENDIX B-2 Statement of Work

PREAMBLE

This Statement of Work accompanies an Agreement that has been executed by the parties. All statements of fact contained in this Statement of Work are subject to the terms and conditions set forth in such Agreement. The terms and conditions set forth in the Agreement control in the event of any inconsistency between such terms and conditions and the matters set forth in this Statement of Work.

1. Project Background

Teleosoft, Inc. intends to install CountySuite Sheriff Software for the Nevada County Sheriff's Office. The Software for this installation is web-based and utilizes the Microsoft .NET Framework and Microsoft SQL Server.

2. Technology

2.1. Upgrades to the application can be done remotely in cooperation with the county IT department and immediately be available to all users

2.2. Browser-based interface doesn't require installs on each user machine

2.3. User Security integrates with Windows Active Directory

2.4. Reporting creates PDF documents for reliable printing and emailing

2.5. Auditing system tracks every change to data within the system by time and user

3. Unified System

3.1. Cases can be quickly retrieved using a variety of search criteria (names, property addresses, case numbers, etc.)

3.2. Participant information is shared between cases so names and addresses are not re-entered if they are already in the system.

3.3. Each contact can have an unlimited number of addresses which can be used for mailing, serving, and keeping historical information.

3.4. When addresses are updated (by a deputy, for instance), all cases associated with that contact see the new information immediately

3.5. Easily lookup an individual and see which cases (including warrants) are associated with them

3.6. Municipal information is integrated to create notices for real estate sales

3.7. An unlimited number of case participants (plaintiffs, defendants, attorneys, etc.) can be associated with each case

3.8. An unlimited number of instructions can be associated with each case

3.9. An unlimited number of services can be associated with each instruction

3.10. An unlimited number of docket events can be associated with each case, or each instruction, or each service

3.11. Reports pull from information already entered into the system, so there is no need to enter information again (like case numbers, case participants, addresses, etc.)

3.12. Contact details for all services include physical characteristics (height, weight scars) and the ability to store pictures and images

4. Civil Actions

- 4.1. All types of requests (instructions) use a similar interface for a consistent user experience (received date, writ type, writ date, expiration date, notes, list of services, list of docket events, etc.)
- 4.2. Latest status of each service is quickly visible (no action, served on what date, out with a deputy, etc.)
- 4.3. Pre-defined text (customized for Nevada County Sheriff's Office) is available for all docket events to avoid re-typing common paragraphs. This text supports SuiteTags™ (like @ServeToName, @ServeToAddress, @DeputyName, etc.) that are automatically replaced by the appropriate service or case-related information.
- 4.4. The sheriff return report is generated from text entered for each docket event (includes time and date of each service as entered by the deputy, etc.)
- 4.5. Includes support for *In Forma Pauperis* (IFP) and being deputized by an out-of-county or out-of-state sheriff's office

5. Personal Property

In addition to 4.1 – 4.4:

- 5.1. Personal property payoff amount auto-calculates to include sheriff costs as they are accrued
- 5.2. Levy sale dates can be scheduled and re-scheduled (notice reports are generated for mailing when a re-scheduling is necessary).
- 5.3. Levy Sheriff Sale Posters are generated from case information and sale dates, and the list of levy items entered into the system.
- 5.4. Supports garnishments, possessions, seizures and evictions as well.
- 5.5. See EWO section below
- 5.6. Includes: Bank Levy, 3rd Party Levy, Till Tap, Keeper, Book Levy, Claim of Exemption, 3rd Party Claim

6. Real Property

In addition to 4.1 – 4.4:

- 6.1. Clearly show the current state of a Real Property case, what the next step would be, and the required timeline for those events.
- 6.2. Define and schedule sale dates whenever necessary
- 6.3. Manage all properties associated with a sale date from one interface
- 6.4. Cancel, postpone, and enter advertising events for multiple properties at once
- 6.5. Create crier reports for the sale with a single button click (showing case info, address, sheriff costs, etc.)
- 6.6. Enter sale costs for properties associated with a sale date from a single interface (including the ability to automatically split a total cost across all properties)
- 6.7. Track all costs with an integrated sale worksheet (sheriff costs, judgment costs, municipal costs, etc.)
- 6.8. Default costs are all pre-entered when a real property case is created (as defined by your county)

- 6.9. Generate a sale costs report with a single button click
- 6.10. Generate a sale poster using property and legal description information (entered via cut & paste)
- 6.11. Generate a distribution schedule after the sale
- 6.12. Generate a sheriff's deed using the information already entered prior to the sale
- 6.13. Enter the municipality with the property address and have the system automatically generate municipal notices for all the appropriate authorities (tax collector, sewer, water, refuse, etc.)
- 6.14. Automatically calculate service and posting mileage costs from deputy actions based on the mileage entered
- 6.15. Easily transfer sale costs from the sale worksheet to the accounting ledger after a sale
- 6.16. Optionally Includes a public web-site application that shows up-to-date sale status (active, postponed, cancelled), attorney contact information, judgment amount, etc.
- 6.17. Generate Letters as required throughout the process

7. Temporary Restraining Order

In addition to 4.1 – 4.4:

- 7.1. Includes support for *In Forma Pauperis* (IFP) and being deputized by an out-of-county or out-of-state sheriff's office
- 7.2. Contact details for TRO defendants include physical characteristics (height, weight scars) and the ability to store pictures and images
- 7.3. A TRO list can be generated of all active TROs with expiration date (when applicable)

8. Civil Bench Warrants

In addition to 4.1 – 4.4:

- 8.1. Contact details includes physical characteristics (height, weight scars) and the ability to store pictures and images
- 8.2. Supports additional information like Crimes Codes, state and FBI numbers, extradition codes, etc.
- 8.3. A warrant list can be generated of all active warrants and/or warrants that have been served, but costs are still owed.
- 8.4. Permissions and authentication system ensures only individuals with the proper access can see and process warrants
- 8.5. Generate Bench Warrant letters

9. Accounting

- 9.1. Completely integrated throughout the entire application
- 9.2. When Instructions are received by the Sheriff's Office, the Filing Fee and Deposit are entered along with the case information
- 9.3. Deposits are verified by authorized personnel
- 9.4. Receipts are created and can be printed for each deposit

- 9.5. Journal entries are required for deposits that need to be changed/re-entered
- 9.6. Full Reconciliation module for balancing with bank statements
- 9.7. Each Instruction (Real Property, Civil Action, etc.) has its own ledger to track all costs and deposits
- 9.8. When a case is closed, all costs are transferred (not re-entered) to the escrow/checking account
- 9.9. Costs can be consolidated into single checks for sheriff costs, surcharge costs, advertising costs, etc.
- 9.10. Checks can be printed directly out of the system
- 9.11. Audit reports can be printed across any date range to show closed cases, open cases, account ledger activity, surcharge costs and more
- 9.12. Disbursements
- 9.13. Reports (ex. Ledgers (Accounts, Closed Cases, Open Cases, Deposit, Receipt), Disbursements, Collections, Checks, Reconciliation)

10. Mobile Deputy Application

- 10.1. Display all services available to be delivered within the system
- 10.2. Sort by expiration date, name, address, case number, etc.
- 10.3. Deputy can "check out" a service, and then track notes, mileage, attempts, address changes, etc. throughout the day
- 10.4. Once "checked out", all service information can be entered and recorded "offline", and then updated when connectivity is restored
- 10.5. All data entered by the deputy is imported into the system with a single button click
- 10.6. Mileage costs can be automatically calculated and added to the ledger when a service is "checked in"
- 10.7. Address changes made by the deputy are added to the contact information
- 10.8. Notes can be associated with the service, the individual or the address (special warnings, directions, etc.)
- 10.9. Deputy daily logs are searchable and printable from the internal office application by deputy managers
- 10.10. All daily log events can be tracked (traffic citations, etc.), not just attempts related to civil process
- 10.11. Metrics reports are available to list how many services of each type were performed over a specified date range, etc.

11. Child Support Services

- 11.1. Provide the ability to track these cases like any other civil action (case participants, events, etc.)
- 11.2. All costs and fees are tracked and can be disbursed using the integrated accounting system
- 11.3. All forms and reports can be generated from within the system (DCSSS Form, Letter to Process Server, etc.)

12. Scan and Attach Documents

12.1. Ability to scan and attach documents and images to any case

12.2. Ability to automatically store electronic copies of any reports generated by the system with the associated case.

13. Earned Withholding Order (EWO)

13.1. Modifications to our current system to more easily manage EWO deposits/payments within a particular case, and across all active cases. Additional screens would be created showing the ledger, current balance, etc.

13.2. Implement rules and logic to allow the system to automatically determine when an EWO payout is authorized or not.

13.3. Implement rules and logic to determine if an EWO can be filed (i.e. the defendant already has an EWO, has filed bankruptcy, etc.)

13.4. Implement rules and logic to automatically calculate the correct interest amounts, and update the case ledger.

13.5. Disbursements, Claim for Exemption

14. Bankruptcy Stipulations

14.1. Implement rules and logic to ensure that a bankruptcy filing by a defendant affects the appropriate areas throughout the system (deposits, payouts, claims for exemption, creditors, etc.)

14.2. Generate Bankruptcy letters to attorney, trustee, and debtor.

15. Report Enhancements

15.1. Update report formats and contents for above-mentioned reports to comply with current California and county statutes

15.2. Reports are designed to allow expansion of data text fields so that information is not cut-off

15.3. Generate all service forms and trip tickets for deputies

15.4. Support bar coding of reports

16. Services Public Portal

16.1. Ability for public users to do a "Public Case Inquiry"

16.2. Search by case participants, court case number, and civil file number.

17. System Analysis and Design

17.1. Conduct Interviews with key personnel identifying:

- 17.1.1. Processes and Procedures**
- 17.1.2. Accounting details**
- 17.1.3. Personnel and User Authorizations**
- 17.1.4. Sample papers and reports**

17.2. Create Project Plan

18. Base Hardware & Software Setup

18.1. Setup and configure Operating Systems and Active Directory integration

18.2. Configure IIS Server(s)

18.3. Configure SQL Server(s)

18.4. Test hardware and network connectivity

18.5. Obtain remote access credentials

19. Configuration Updates

19.1. Application Settings (settings like default options and triggers, installation location details, check printer names, page and option titles, etc.)

19.2. Users and Authorizations (internal user logons, security group membership, names and addresses for officials, etc.)

19.3. Logos and Digital Signatures (report logos and official signatures)

19.4. Category names and descriptions (all cost categories, service categories, service disposition categories, default text, etc.)

19.5. Geography (Municipalities/Districts/Regions/Postal Codes)

19.6. Default costs and Default payees

19.7. Default text and SuiteTags™ (default text that can be inserted for any commonly-typed phrases when selecting specific categories and options)

19.8. Business Rules

19.9. Reporting updates

20. Data Migration

20.1. Develop and test scripts to move all case information, including accounting, from the current Sirron system into the new CountySuite Sheriff system.

20.2. Perform and verify a complete migration from Sirron to CountySuite Sheriff.

21. Training

21.1. General user training sessions, which would include everyone.

21.1.1. Our preference is to break these sessions into 4 hour periods, and give the users a break between each session.

21.1.2. So the process would be to train the first group of people and then train another group of people. The next day the first group would come back for their next session, and so on. This prevents burnout and also allows the users to think of questions, or play with things they learned on the test server in between classes.

21.2. Accounting training

21.2.1. Specific to the finance staff. This would cover issues like deposit verifications, void, NSF, bank reconciling, check printing and accounting reports

21.3. Deputy training

21.3.1. The number of classes here would depend on how many deputies will be performing civil process. We'd do as many as we need to so that the classes can remain small.

21.4. Administrator training

21.4.1. These classes would cover how to manage security administration, making changes to things like key official names, common multipliers (mileage), and default costs, etc.

21.5. Train-the-trainer

21.5.1. These classes would cover the materials presented in the above sessions to allow an internal office user to present these same training classes later on.

22. Testing

22.1. Go Live on the Test server

22.2. Functional testing

22.2.1. Workflow testing and verification

22.2.2. Mobile Deputy testing

22.3. Reliability

22.4. Accuracy (Configuration Settings are correct, etc.)

22.5. Security

22.6. Users are comfortable and ready to use the system in day to day operations

23. Go Live on Production Server

23.1. Teleosoft personnel will be on-site to support the launch and assist any users.

SCHEDULE C—SOFTWARE MAINTENANCE AGREEMENT

1.0 Scope of Agreement

- 1.1 This Schedule C covers the maintenance of Software licensed or delivered by Contractor for the benefit of the County pursuant to that certain concurrently effective Software License Agreement (Schedule B) between the parties, as listed on Schedule E: Schedule of Charges and Payments. This Agreement provides maintenance services only with respect to Software, including third party software, supplied by Contractor to County pursuant to the terms of the Software License Agreement. This Agreement does not provide for maintenance services for any third party software not provided by Contractor to County or for any hardware.
- 1.2 Contractor's obligation to provide Support Services shall extend to the current Release and prior Versions whose Release number begins with the same number or immediately preceding number as the current Release. For example, if the current Release is 4.5, Contractor will support only those Versions between 3.x and 4.5. If County desires support for earlier Versions of the Software, such support may be treated by Contractor as additional consulting services for which County will be billed at Contractor's then-current time-and-materials rates. County understands that its implementation of a new Version may require County to upgrade its Computer System.

2.0 Term of Agreement

- 2.1 The initial term ("Initial Term") of this Agreement shall begin thirty (30) days following the System Cutover ("Maintenance Agreement Effective Date") with an initial term of seventy-two (72) months. Unless sooner terminated or extended in accordance with the terms hereof, the term of this Agreement shall remain in effect for a period ending on the date immediately prior to the fifth (5th) annual anniversary date of the Maintenance Agreement Effective Date.
- 2.2 Upon expiration of the Initial Term, subject to the same fees paid by Contractor during the prior term unless adjusted in accordance with Section 7 below, the Agreement will automatically renew for a successive period of one (1) year ("First Renewal Term"), as set forth above, unless County gives Contractor written notice at least ninety (90) days prior to the expiration date of the Initial Term that the Agreement will not be renewed beyond the Initial Term. Thereafter, the Agreement will automatically renew for successive periods of one (1) year ("Subsequent Term(s)") unless either party gives the other party written notice at least ninety (90) days prior to the expiration of the then current Subsequent Term that such term will not be renewed. The Initial Term, First Renewal Term and the Subsequent Terms are herein collectively referred to as "Term".

3.0 Maintenance Fees

Maintenance fees shall be as detailed in Schedule E, Schedule of Charges and Payments.

4.0 Covered Maintenance

Contractor will provide to County: (a) all services required to ensure that the Software operates in conformity with all Specifications; and (b) all Enhancements developed by Contractor for the Software and related Documentation during the Term of this Agreement. Covered Maintenance Services do not include the costs of accessories and expendable supplies necessary to operate the Software, such as magnetic tape cards, optical disks, disk packs, paper, and similar items, and such items are not provided free of charge by Contractor hereunder.

5.0 County Obligations

- 5.1 County may designate up to five (5) persons by whom requests by Customer for Support Services may be made ("Support Team"). Contractor shall not be required to accept calls or requests from anyone other than a designated contact person. County may change its designated contact person, or request that additional people be made contact persons, at any time upon notice to Contractor.

- 5.2 County shall implement and follow the reasonable written instructions of Contractor regarding operation of the Software.
- 5.3 County shall maintain a Computer System that complies with the Hardware Specifications described in Appendix D-1. The Computer System shall be housed with site conditions that conform to common industry standards for all computer systems and/or media devices. County shall, at its own expense, install and periodically update a computer virus program to protect its Computer System and database from computer viruses that may, from time to time, be transmitted or downloaded. Contractor expressly disclaims any liability for loss or damage caused by any computer virus on County's computer platform or database, except those which may prove to be attributed to Contractor's software or activities.
- 5.4 County will provide Contractor with access to County's network over a secure internet connection.
- 5.5 County shall create and maintain timely, accurate, and readable electronic back-ups of all data and program and system files.

6.0 Compliance Updates

Contractor shall exercise due diligence in accordance with the highest professional standards and provide County, in a timely manner, with Compliance Updates. Contractor agrees to monitor changes in the applicable California laws and regulations to help the County maintain the system compliance. The County agrees to promptly notify Contractor when it becomes aware of any applicable change in the laws or regulations which the Software is designed to support. Contractor will provide up to 1000 hours of technical effort per calendar year in furtherance of legislative compliance updates. Any hours over 1000 that are required to meet a compliance update effort by Contractor shall be spread on an equitable basis across Contractor's affected client base on a time and materials basis.

7.0 Service Level Agreement

- 7.1 Contractor will maintain a website accessible by County, which contains information concerning the Software and Support Services.
- 7.2 Contractor will respond to County requests for software support services regarding the licensed software in accordance with the procedures identified below. In each case, County may describe and submit notice of the support need by telephone, facsimile or electronic mail.
- 7.3 All Contractor staff assigned to provide services to County will be appropriately qualified by education, training and experience to deliver those services, and will be familiar with the functional capabilities of the Software.
- 7.4 Telephone Support includes: (i) remote diagnostics; (ii) service desk and dispatch; (iii) question and answer consulting; and, (iv) non-chargeable user error remedies. Contractor shall provide a toll-free maintenance telephone number. Remote diagnostics equipment is required at County's location for remote support, which equipment is to be obtained by County at its sole expense.

Contractor shall provide County with telephone support services for Software from 8:00 a.m. to 5:00 p.m. Pacific Time, Monday through Friday, excluding the following holidays: New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day after Thanksgiving, and Christmas Day.

7.5 Response Policy

Contractor shall respond to any Errors reported by County based on the priority code assigned to each such Error. County shall identify the priority code when it initially reports the Error to Contractor. Contractor may, in its reasonable discretion, re-classify the Error after its initial investigation. In the event Contractor does not meet the service level response for the Error as described in the table below, the County may request to

escalate the Error to a higher priority code, which request the Contractor shall not unreasonably deny.

For specific priority codes and levels, see Appendix C-1, 2.2 Reporting Procedures

7.6 Remedies

In the event Contractor fails to meet the service level standards described herein, County may, without penalty, withhold payment for maintenance and support fees until said standards are met.

8.0 Right to Modify or Cancel Support

8.1 County may choose to cancel software maintenance and support at the next renewal date upon thirty (30) calendar days notice to Contractor.

8.2 County may delete a subset of licenses that are no longer in use from software maintenance and support at the agreement next renewal date upon thirty (30) days notice to Contractor.

8.3 County may resume software maintenance and support for lapsed periods by paying Contractor an amount no greater than the support fee that would have been due if maintenance and support had been continued over the lapsed period. Upon payment of such fees for lapsed periods, Contractor agrees to provide County with right to any software upgrades released during that period.

8.4 The parties agree that County may request additional services not covered under this Agreement by delivering to Contractor a Change Order request. Services to be provided pursuant to a Change Order may include, without limitation, services related to: (a) additional Training; (b) programming, configuration and data migration or repair; (c) research, development and business analysis related to the estimates and bidding for Customizations and Enhancements. Contractor shall provide County with a written response to the Change Order request which describes in general the work requested, an estimate of the time required to perform such services, and a schedule of the fees related thereto. For clarity, the scope and nature of a requested Change Order may require the development of specific requirements and an analysis of the impact on the Software and reports in order to provide detailed estimate for the requested work. The County understands and acknowledges that Contractor shall not undertake detailed specification development or estimate preparation until a signed Change Order authorizing such work is signed by County. The County shall be charged at the rates set forth in Schedule E for the development of requirements by Contractor. All work detailed in a Change Order will be performed on a time and materials basis at the rates set forth in Schedule E, unless specified otherwise in the Change Order. Any impact on the Software License Fee will also be reflected in the Change Order.

APPENDIX C-1 Statement of Work

PREAMBLE

This Statement of Work accompanies an Agreement that has been executed by the parties. All statements of fact contained in this Statement of Work are subject to the terms and conditions set forth in such Agreement. The terms and conditions set forth in the Agreement control in the event of any inconsistency between such terms and conditions and the matters set forth in this Statement of Work.

1. Project Background

Teleosoft, Inc. has implemented and installed Software for the Nevada County Sheriff's Office Civil Unit. The Software for this installation is web-based and utilizes the Microsoft .NET Framework and Microsoft SQL Server.

2. Scope

2.1. Maintenance Services

The following are the Maintenance Services that will be performed by Licensor in connection with the Software. Licensor shall:

2.1.1. Develop and provide corrections, changes, or workarounds ("Corrections") for any defects, errors, or malfunctions in the Software (collectively, "Defects"), discovered by Licensee, on a timely basis;

2.1.2. Provide to Licensee all improvements, modifications and enhancements ("Improvements", which term will not include improvements, modifications and enhancements which are developed by Licensor specifically for its other customers which are specific to the systems or software of such other customers) to the Software which Licensor shall make or acquire from time to time and which Licensor makes available to its clients generally;

Documentation of the above shall be provided at no additional cost and shall be adequate to inform Licensee of any problems resolved and any significant differences resulting from the release which are known by Licensor. Licensor warrants that each such general release shall have been tested and shall perform according to the Specifications. Licensor agrees to correct, at no cost to the Licensee, corrupted Data that may result from any System Deficiency introduced by the Improvements.

Continuous Improvement. Contractor shall on an ongoing basis, as part of its total quality management process, identify, report to Licensee, and implement ways to improve performance of the System and identify and apply techniques and tools from other Licensor installations that would benefit Licensee either operationally or financially.

Performance Standard Measurement. Licensor shall maintain the System, in whole and in part, to meet the Performance Standards. Licensor will conduct tests for measuring and certifying the achievement of the Performance Standards. Licensor must implement all testing, measurement and monitoring tools and procedures required to measure and report Licensor's performance of the System against the applicable Performance Standards. Such testing, measurement and monitoring must permit reporting at a level of detail sufficient to verify compliance with the Performance Standards, and will be subject to audit by Licensee. Licensor will provide Licensee with information and access to all information or work product produced by such tools and procedures upon request for purposes of verification.

2.1.3. Provide Licensee any upgrade releases ("Upgrade Releases") to the Software and all new Versions and Releases of the Software, which Licensor makes available to its clients generally;

2.1.4. At all times provide Maintenance Services for at least the current and one (1) previous Release of the Licensed Software; provided, that Licensor's obligation to maintain a previous Release will terminate 120 days after the current Release was made available to Licensee.

2.2. Reporting Procedures

2.2.1. The first line of support will be the Licensor's Help Desk, who will contact the Licensee Help Desk / IT Department when necessary.

2.2.2. The Licensor shall maintain a technical support entry point ("Support Center") in Pennsylvania, identified by a dedicated phone number and e-mail address. Licensee may use this entry point to request service of the Covered Software. The Support Center operates during business hours, 8:00 a.m. to 5:00 p.m. (customer local time), Monday through Friday, excluding legal holidays.

2.2.3. Support calls and/or emails will be responded to as follows:

Level 5 - Emergency - The System no longer functions.

- Performance Standard for responding to Deficiency call is 30 minutes.
- Performance Standard for reporting recommended resolution and fix date/time for all System components is 2 hours.
- Performance Standard for correction of Deficiency associated with System component is 24 hours.

Level 4 - Disabled, no Workaround – A business function or System component does not work as required, and no acceptable workaround is available.

- Performance Standard for responding to Deficiency call is 30 minutes.
- Performance Standard for reporting recommended resolution and fix date/time for all System components is 2 hours.
- Performance Standard for correction of Deficiency associated with System component is 2 business days.

Level 3 - Disabled, Workaround – A business function or System component does not work as required, but a workaround that is acceptable to County is available.

- Performance Standard for responding to Deficiency call is 30 minutes.
- Performance Standard for reporting recommended resolution and fix date/time for all System components is 2 hours.
- Performance Standard for correction of Deficiency associated with System component is 3 business days.

Level 2 - Minor - Non-critical, but having a negative effect on one or more business functions or System components.

- Performance Standard for responding to problem call is 30 minutes.
- Performance Standard for reporting recommended resolution and fix date/time for all System components is 4 hours.
- Performance Standard for correction of problem associated with System component is 5 business days.

Level 1 - Cosmetic - Non-critical and non-impacting to one or more business functions or System components.

- Performance Standard for responding to Deficiency call is 30 minutes.
- Performance Standard for reporting recommended resolution and fix date/time for all System components is 4 hours.
- Performance Standard for correction of Deficiency associated with System component is 10 business days.

2.2.4. This technical support entry point will also coordinate problem resolution and keep the Licensee apprised of efforts to remedy any problem situation until complete restoration of the service.

2.3. Coverage

2.3.1. Licensor assumes no responsibility for the correctness of, performance of, or any resulting incompatibilities with, current or future releases of the Covered Software if the Licensee has made

changes to the system hardware / software configuration or modifications to any supplied source code which changes effect the performance of the Covered Software and were made without prior notification and written approval by Licensor.

2.3.2. Licensor assumes no responsibility for hardware vendor operating systems or other system software.

2.3.3. For the purpose of maintaining and supporting more current platform(s), both Licensee and Licensor agree that a currently supported Microsoft Environment is the most current release, and the previous two releases. An example is the client operating system.

Name	Release Date	Release Version Number
Windows 8.1	18-Oct-13	NT 6.3
Windows 8	26-Oct-12	NT 6.2
Windows 7	22-Oct-09	NT 6.1

Another example is SQL Server releases;

Release Name	Year	Version
SQL Server 2008 R2	2010	10.5
SQL Server 2012	2012	11
SQL Server 2014	2014	12

- Both the Licensee and Licensor agree to maintain support for the most current and previous two releases for all software necessary for the support of the product provided to County.
- Licensor agrees to monitor the release of all software necessary for the support provided to Licensee and update "server" and "client" applications to stay current with these versions.
- Licensor agrees to maintain a version control number which will allow for similar tracking and support for both "server" and "client" applications. Licensor application versions should have a similar life span as the software required to support them. Licensee agrees to move to one of the most current three versions once notified by Licensor that such a release is required because a prior version is no longer supported. Licensor agrees to give Licensee 180 days' notice should there be such a release.

2.3.4. Coverage is limited to the Software operating at the following Licensee site(s):
Nevada County, CA.

2.4. Change Management The parties shall develop a mutually agreeable change management process. At a minimum, such process shall require Licensor to notify Licensee and obtain Licensee's approval prior to implementing any material changes to the services provided by Licensor hereunder or any changes which could materially affect Licensee's use of the Software as contemplated in this Agreement.

SCHEDULE D: SCOPE OF PROFESSIONAL SERVICES

1.0 Objectives of the Project

Contractor will manage and implement a project, in accordance with the methodology described herein, to enable the County to utilize Contractor's **CountySuite: Sheriff** Software. In fulfilling their respective obligations as described in this Schedule and the resulting implementation plans, Contractor and County agree to use all commercially reasonable efforts to perform in accordance with the respective plans and schedules.

2.0 Project Personnel

- 2.1 Contractor will designate a Project Manager and provide individuals to meet the requirements and accomplish the work as stated in this Agreement. If, during the course of the implementation of this Agreement, it becomes necessary for the Contractor to change the person assigned as Contractor's Project Manager, Contractor will notify County in writing. The following positions on the Contractor's project team are identified as Contractor Key Roles:

Project Manager

- Responsible for successful project implementations by managing project scope, project deliverables, project resources, project communication, project timelines, and project risk
- Responsible for transition to support

Business Analysts

- Act as subject matter experts for the product
- Define and document data requirements and mapping elements, and configuration requirements through the product overviews and business process discovery
- Perform testing and work with clients on user acceptance testing
- Train the clients and periodically update user documentation
- Support during project completion through transition

Implementation Specialists

- Responsible for data migration and importing templates into the System's data structure
- Responsible for developing reports, extracts, and interfaces for the project team

- 2.2 Contractor's Project Manager will be responsible for all aspects of the project implementation and will be fully knowledgeable of the objectives of the project. Contractor's Project Manager will provide leadership to both Contractor and County personnel engaged in the Project implementation, and will coordinate all administrative and technical decisions on the project.
- 2.3 Contractor Project Manager will coordinate all of Contractor's on-site and off-site personnel working on the Project. The Contractor Project Manager will schedule Contractor implementation team resources and work with the County's Project Manager to ensure that the County's team is available for planned activities.
- 2.4 County will designate a Project Manager to serve as the primary point of contact with Contractor during the execution of the Project. If, during the course of the implementation of this Agreement, it becomes necessary for the County to change the person assigned as County's Project Manager, County will notify Contractor in writing.
- 2.5 After Test Servers are ready and Software is installed, Contractor's Project Manager shall deliver to County's Project Manager, Monthly reports of Contractor's progress on the

project, including progress toward completing the Tasks and Deliverables as described herein. Each report must contain a description of the current status of the project, the Tasks on which time was spent, the estimated progress to be made in the next reporting period and the problems encountered the proposed solutions to them and their effect, if any, on the project schedule. In addition, Contractor will make bi-weekly status calls or visits.

- 2.6 Contractor will solicit and consider input from County prior to substitution of those individuals performing Key Roles as identified herein. Contractor further agrees that any substitution made pursuant to this paragraph must be of equal or higher skills, knowledge, and abilities than those personnel originally assigned and that County's concurrence with a substitution will not be construed as an acceptance of the substitution's performance potential. The personnel furnished must have the knowledge necessary to complete requirements as defined in this Agreement.
- 2.7 Upon request by County, Contractor shall give reasonable consideration to replacing any Contractor personnel who County determines to be unable to perform the responsibilities of the contract acceptably, e.g., inappropriate or unprofessional personal conduct, professional inabilities, etc.

3.0 County Responsibilities

- 3.1 The County's Project Manager will coordinate with the Contractor Project Manager regarding the delivery of Data Conversion Services. County's Project Manager will be available to Contractor Project Manager as needed to enable Data Conversion Services to be performed efficiently, and will participate in meetings, training, and other activities related to the delivery of Data Conversion Services as reasonable requested by Contractor's Project Manager.
- 3.2 The County will make available End Users and additional staff as necessary and appropriate to enable the implementation to proceed as planned.
- 3.3 County will ensure that End Users who participate in Training have the background and experience required to enable them to understand the training and learn how to use the Software, including operation of workstations in a MS Windows environment.
- 3.4 County will provide a training room to accommodate up to twelve students and one trainer, each with their own PC.
- 3.5 The County is responsible for meeting the information technology infrastructure needs of the project, including procuring and licensing all hardware and software products, other than the software provided by Contractor, required for the Project. Contractor will provide advice and guidance as necessary to assist County in acquisition and configuration of infrastructure resources. Depending on the nature and extent of such assistance to be provided by Contractor, Contractor's technical services may be billable at then-current rates. Before any non-contract technical services charges are incurred, Contractor will provide a formal quote for said services, which will be managed through the Change Request process.
- 3.6 The County will provide timely access to its office facilities for Contractor personnel as needed during County's regular business hours (Monday through Friday, 8am to 5pm) for the duration of the project. After-hours access can be arranged in advance with the County Project Manager. The facilities to be provided shall include work areas, desks and chairs, telephones and wireless access, and access to copier and fax machines.
- 3.7 The County will provide timely access to all areas of its premises required for Contractor to perform its responsibilities under this Agreement. Access to restricted areas (including the server room, wiring closets, etc.) will require an authorized escort.
- 3.8 The County shall provide access to business, operational, and technical data for its environment, as necessary to meet the objectives of this Project. The County shall provide the necessary extracted data in the agreed upon intermediate format required to

complete the data conversion. Data and data access will be provided under a mutually agreed security policy.

- 3.9 The County is responsible for all data cleansing activities. Contractor will provide subject matter experts to assist with troubleshooting and developing cleansing strategy.
- 3.10 The County shall be responsible for participating in the Product Overview sessions; Contractor-led 'Train-the-Trainer' sessions; identifying County subject matter experts responsible for defining and documenting the County business process using the Contractor product suite; and providing training resources to conduct the End-User Training sessions in the County offices prior to system deployment.
- 3.11 The County shall be responsible for developing testing scenarios from defined business processes, documented requirements, and current examples of business use cases. Execution of the functionality testing, as well as data conversion review and validation is the responsibility of the County. Contractor will provide subject matter experts to assist with troubleshooting, system training, and facilitate logging/tracking of identified product defects.
- 3.12 The County shall provide staging areas for the purpose of hardware and software configuration, and operational state testing before installing upgraded or new equipment at the County site.
- 3.13 The County shall provide a facility that will serve as the software solution lab where computer terminals will be set up for interfacing with the test and development database.

4.0 Contractor Responsibilities

- 4.1 Contractor will provide County with required specifications for Local Hardware, including software specifications for required operating systems and network software, so that County may procure and/or configure the necessary Local hardware at County's expense.
- 4.2 If requested by the County, Contractor will provide technical support services to assist County in evaluating its Local Hardware; identifying network, communications and computer resources required to properly operate the Software; and installing and configuring the Local Hardware for the County. If Contractor provides these services, it guarantees to the County that, at the time of installation, the Local hardware will be properly configured and installed, and will provide sufficient network communications, and computer resources to support the anticipated number of End Users.

5.0 Place of Performance

Contractor will perform project work at its own locations as well as in County offices. County will make available such office space and meeting space as is reasonably required for Contractor staff to perform their work.

6.0 Project Management Plan

Contractor Project Manager, with the assistance and consultation of the Project Management Team, will develop a Project Management Plan (PMP) to include the following components, either incorporated into the body of the PMP or presented as exhibits or schedules thereto:

- 6.1 Project Schedule: A preliminary high-level Project Schedule is provided in Exhibit 1 of this Schedule D. The Contractor and County Project Managers shall conduct a joint review of the Project Schedule during the initial stages of the project. Once the Project Schedule is agreed by the Project Management Team it will become the primary tool used to guide the project team, monitor, and control the project.

The Project Schedule will be reviewed and updated by the project management team on a regular basis in response to changing circumstances, actual progress and as more detailed planning becomes possible. Any material changes to the accepted Project Schedule which affect the schedule of milestone tasks or that are considered to be of significant impact by either Project Manager will be handled in accordance with the Change Control Plan.

- 6.2 Deliverables: A list of the key Deliverables, a form for tracking the completion of the Deliverables, and a sample of the Deliverable Acceptance Statement to be used to document completion of Deliverables. Deliverables will be tracked and County's acceptance of Deliverables will be documented. Deliverable documents will be provided to the County Project Manager in an electronic format via email unless otherwise mutually agreed by the project managers. Electronic documents will be delivered in the format of the tool used to produce them (e.g. Word, Excel, MS Project) unless specified differently in the Deliverables List or otherwise mutually agreed by the project managers.

Where deliverables are not documents or where deliverable documents are delivered by a means other than email, the Contractor Project Manager will notify the County Project Manager by email that the deliverable is complete with an appropriate description of the delivery method and how the County can take possession of the deliverable. Where delivery method includes a delay before the County is in receipt of the item, e.g. mail, then the delivery date will be when the County receives the item.

- 6.3 Data Conversion Plan: A description of the overall approach, responsibilities, and timing of the process for converting data from the County's legacy database to the Licensed Software. The Data Conversion Plan will be based on a two-step data conversion effort. The County will design and develop the programs to extract and cleanse the data from the current data structures into an intermediate file format. Contractor will design and develop the programs to convert the data from the intermediate files into the new system. Both parties will build edit and data validation tables/files that at a minimum parallel those currently being utilized by the County for the purpose of validation in the accuracy of the data and files extracted/imported.
- 6.4 Issue Management Plan: A high-level description of how issues will be classified, logged, and resolved. This plan should include a template of the form to be used for logging issues and their resolutions.
- 6.5 Interface Specifications: A definition of external interfaces between the Software and other existing or planned information or communications systems. Contractor and County shall have responsibility for preparing and controlling all of the Interface Specifications.
- 6.6 Training Plan: A description of the strategy for providing comprehensive training in all aspects of system usage, administration and problem resolution will be developed during Project Initiation. The training strategy will include a needs analysis to define who needs training and on what topics, development of training curriculum, arrangement of training logistics, preparation of training materials, and assessing training effectiveness. Training will include classroom lectures and interactive training in concert with the online help resources and user manual. All training will have prescribed user-oriented objectives. Contractor will provide training materials. The Training Plan will incorporate training for the following groups of County staff, and include the indicated content:
- a. Trainers – Contractor will provide general end-user 'train-the-trainer' training to designated County 'Trainers'. This training will be conducted during the pre-installation period. The information the County 'Trainers' acquire will be used as they train the End Users. Several different "train the trainer" classes will be taught prior to live implementation.
 - b. Key Users – County staff members identified by management who will be working with Contractor as a part of the installation and implementation team. This includes members of the County-designated Support Team who will be the principal points of contact with Contractor for ongoing maintenance as described in Schedule C.
 - c. Supervisors/Managers – County staff members who need to understand and facilitate the system at the operations level will train in a classroom setting. These users will learn how to manage the specifics of daily, weekly, and monthly operations as they pertain to facilitating the program as a whole system. This training will be conducted prior to live implementation.

- 6.2 Deliverables: A list of the key Deliverables, a form for tracking the completion of the Deliverables, and a sample of the Deliverable Acceptance Statement to be used to document completion of Deliverables. Deliverables will be tracked and County's acceptance of Deliverables will be documented. Deliverable documents will be provided to the County Project Manager in an electronic format via email unless otherwise mutually agreed by the project managers. Electronic documents will be delivered in the format of the tool used to produce them (e.g. Word, Excel, MS Project) unless specified differently in the Deliverables List or otherwise mutually agreed by the project managers.

Where deliverables are not documents or where deliverable documents are delivered by a means other than email, the Contractor Project Manager will notify the County Project Manager by email that the deliverable is complete with an appropriate description of the delivery method and how the County can take possession of the deliverable. Where delivery method includes a delay before the County is in receipt of the item, e.g. mail, then the delivery date will be when the County receives the item.

- 6.3 Data Conversion Plan: A description of the overall approach, responsibilities, and timing of the process for converting data from the County's legacy database to the Licensed Software. The Data Conversion Plan will be based on a two-step data conversion effort. The County will design and develop the programs to extract and cleanse the data from the current data structures into an intermediate file format. Contractor will design and develop the programs to convert the data from the intermediate files into the new system. Both parties will build edit and data validation tables/files that at a minimum parallel those currently being utilized by the County for the purpose of validation in the accuracy of the data and files extracted/imported.
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 - b. Key Users – County staff members identified by management who will be working with Contractor as a part of the installation and implementation team. This includes members of the County-designated Support Team who will be the principal points of contact with Contractor for ongoing maintenance as described in Schedule C.
 - c. Supervisors/Managers – County staff members who need to understand and facilitate the system at the operations level will train in a classroom setting. These users will learn how to manage the specifics of daily, weekly, and monthly operations as they pertain to facilitating the program as a whole system. This training will be conducted prior to live implementation.

- d. Technical Users – County staff members serving as database administrators, system administrators and application administrators will be trained in backup, recovery, and advanced application features such as interface maintenance, table maintenance, data management and manipulation, archiving and error recovery.
- 6.7 Risk Management Plan: A high-level description of activities that Contractor and the County will implement to mitigate identified areas of risk to the successful completion of the Project. Risk management and control consists of keeping risks within agreed to bounds. It includes the identification, reporting and assessment of the status of each Project risk at the appropriate management levels. The set of identified Project risks is monitored via Project cost, schedule and requirements management systems. New risks may be identified when any or all of the project control areas have significant deviation from the project plan. Risk reviews identify the status and the effectiveness of avoidance and contingency actions for each risk. This process will continually be reassessed during the reporting/status updates for the project. Details on procedures in place for managing risk during the implementation process, including a template for a Risk Log to be used in tracking risks and their mitigations, will be defined in this plan.
- 6.8 Resource Plan: A description of the roles and responsibilities (task responsibility matrix) of individuals whose efforts will be required to sufficiently staff the Project, as well as a description of how other personnel and non-personnel resources will be allocated and deployed for successful completion of the Project.
- 6.9 Communication Plan: A description of the communication procedures, reporting requirements and formats, and issue escalation process to be used in communications between Contractor and the County during the execution of the Project.
- 6.10 Change Control Plan: The procedures to be used for requesting and approving changes to the Project, including changes initiated by either the Contractor or the County. It should include a Change Request form template and list of situations/activities that will require a duly authorized Change Request to be considered valid. Change Control is a formal procedure to manage changes to project deliverables (including requirements, specifications and project plans). Through this process the impact of proposed change(s) on functionality, performance, cost, schedule, and quality objectives will be analyzed, evaluated, and reported. The Change Control Process will include, at a minimum:
 - a. A change request must be made in writing by the party desiring the change, to document the potential change.
 - b. The change will be reviewed and, if acceptable to County, Contractor will submit to County an estimate of the impact to cost, schedule, scope, and quality.
 - c. Contractor will continue performing the services in accordance with the original agreement unless otherwise agreed upon by the County's project manager. Work cannot commence on any new activities related to the change request until all parties agree in writing.
 - d. All change requests will be logged and tracked.
 - e. Contractor's Project Manager and County's Project Manager will adapt project plans to incorporate approved changes.
- 6.11 Document Control Plan: A description of the manner in which Contractor will index and publish project documentation, and make that documentation available to the County.
- 6.12 Acceptance Plan: A description of the criteria for final acceptance of the Project and the procedure by which Acceptance will be demonstrated and documented. Unless otherwise provided for in this Agreement or agreed upon in writing by both parties, acceptance testing will be performed on the County's site, on the County's equipment. The Acceptance Plan shall include the following provisions:
 - a. The review, approval, and acceptance of all project Deliverables will be the responsibility of County's Project Manager. The County will apply the following Software Acceptance Process to acceptance of all deliverables:

- i. For the life of this contract, County has the right to complete a review of any deliverable received from Contractor and notify Contractor of County's findings; and
 - ii. If the deliverable is unacceptable, Contractor shall resubmit the deliverable after the appropriate correction or modifications have been made.
 - iii. The process described above will be repeated until final acceptance is obtained, the County waives the irregularity, or the Agreement is terminated.
 - b. "Final Acceptance" is defined as:
 - i. The successful completion of all deliverables as stated in the Scope of Professional Services and following the Software Acceptance Process described above, AND
 - ii. The final delivered product fully implemented in County's live production environment AND
 - c. County will have thirty-days following completion of the Software Acceptance Process, or such other period that is mutually agreed to by the Parties, in which to accept or reject it in writing. If County rejects it, County will specify in writing its grounds for rejection and Contractor will use its best efforts to make the product conform to the requirements of this contract as soon as possible and at no additional cost to County. Contractor shall continue to use its best efforts to make the product conform to the requirements of this Agreement until County accepts the product or terminates this Agreement upon written notice to Contractor.
- 6.13 Quality Management Plan: A high-level description of Contractor's procedures for ensuring the overall quality and efficacy of the Software.

7.0 Project Initiation

- 7.1 Contractor will, in accordance with the Document Control Plan, establish a documentation library that is available to County. County shall have the option of making all documentation available on County's intranet site, provided that all documents are treated as confidential and proprietary, and not a matter of public record.
- 7.2 Contractor will initiate systems as described in the Project Management Plan for recording and managing issues, risks, and changes.
- 7.3 Contractor will conduct product overview sessions demonstrating the features of the Software and will review how the Software will be configured to meet the Specifications. The purpose of these sessions is to:
 - a. identify all product configurations necessary to enable functionality to meet defined requirements;
 - b. identify business processes changes required to be adopted by the Client in order to deploy the software; and
 - c. familiarize Client resources with the software for ultimate production usage – as introductory informal training,
- 7.4 Contractor will install the Software into a test area on County's Local hardware for initial testing and training.

8.0 Project Execution

- 8.1 Contractor will manage the overall project effort and supervise each project subgroup tasked with all project deliverables.
- 8.2 Contractor will provide regular status reports in accordance with the Communication Plan.

8.3 Data Mapping Review

- a. The data mapping review will build on the Data Conversion Plan to complete a detailed study of the data conversion requirements.
- b. The County will be primarily responsible for providing information about the nature and purposes of the data. Contractor will provide subject matter expertise as specifically related to the Licensed Software and schema
- c. The Data Mapping Review will consist of the following tasks:
 - i. Confirm the source files containing data to be converted.
 - ii. Identify the data elements to be converted, or not converted, from each source file.
 - iii. Outline the programs required to extract the data.
 - iv. Provide an approach for controls and reconciliation to ensure the completeness of the mapping.
 - v. Identify data purification issues, including problem, magnitude, and correction alternatives.
 - vi. Document mapped data elements/files within a working document.
 - vii. Provide a "field-level" mapping of source file data elements to the new system database.
- d. In order to efficiently move through this process, the County may elect to engage Contractor to perform additional data conversion activities related to the overall data conversion deliverable. This additional work would be arranged through the Change Request process.

8.4 Data Conversion Development and Test

The development and testing of data conversion programs and files primarily consists of two parallel efforts:

- a. County will develop and test the programs to extract the data from the current file structures and deliver them to Contractor in an intermediate file structure prescribed and provided by Contractor.
- b. Contractor will develop and test the programs to load the intermediate files into the Contractor database. Only data that is absolutely necessary for proper system function and within the scope of the current database structure will be converted. All data not within the current structure will either not be converted or will be converted at Contractor's discretion at the then-current time and materials rate.
- c. Contractor and the County will develop a mutually agreeable data conversion test plan including appropriate audit trails and summary reports.

8.5 Data Conversion Delivery

- a. Contractor will load the converted data into the agreed upon environment, so the County can conduct acceptance testing in accordance with the Acceptance Plan.
- b. Contractor and the County will work together to refine the process of extracting and loading the data to optimize time and resources required to execute the conversion at three separate points in time:
 - i. Initial data load – This conversion consists of a sample size set of data addressing the majority of business rules used to define/populate County data. Several iterations of this initial data may be loaded for review based on the number of corrections needed for successful use of the data in testing. The system will be configured using the base configuration for the state-specific features.

- ii. Full/Complete data load – This conversion builds from the Initial Data Load to include all business rules and a complete set of the County data. Several iterations of this data load may also be necessary. The system will be configured using client-specific configurations identified in the product overview sessions. The goal is to use this database and conversion to move into the User Acceptance Testing activities.
- iii. Production data load – this is the final conversion and will be used to deploy the system into production use of the application. The configuration will be the one accepted from the User Acceptance Testing (UAT) activities.

9.0 Training

Contractor will provide training in accordance with the Training Plan. Data used during training will be the County's converted data. In addition to training with the converted data, mock "live" sessions will be run so that the actions currently performed by each department can be simulated on the new system. On completion of each training class, Contractor will provide an assessment of each trainee's skill levels and capabilities with recommendations for any additional recommended training. Additional training will be managed through the Change Request process documented in the PMP at the then-current consulting services rates.

10.0 User Acceptance Testing (UAT)

- 10.1 User Acceptance Testing is primarily concerned with testing the functionality of the delivered software against the County's business requirements and the Product Feature List provided in Appendix B-1.
- 10.2 The County has the primary responsibility for conducting this testing with some assistance from Contractor with process training and troubleshooting.
- 10.3 Acceptance of the converted data is not a part of UAT; it is addressed during the conversion process and tested with each delivery. If data is uncovered during UAT and deemed by the PMC as critical, then that error will be tracked and corrected as part of the UAT process.
- 10.4 Application or data faults or defects uncovered during UAT may require changes to the base application or conversion programs. Prior acceptance of the conversion tasks does not imply that such conversion adjustments will be change requests.
- 10.5 Additional levels of testing, such as system testing and integration testing, may be conducted at the discretion of the County.
- 10.6 The following activities will take place during UAT, as further defined in the deliverables section of Schedule:
 - a. Development of the Test Strategy Plan
 - b. Development of Testing Scenarios and Scripts
 - c. Execution of the Test Plan
 - d. Management, documentation, reporting of test results
 - e. Fault status tracking

11.0 Project Deliverables

11.1 Deliverables Acceptance

For each of the Deliverables there will be a formal acceptance process by which the County Project Manager provides Contractor with assurance that the County is satisfied that the Acceptance Criteria for the respective Deliverable have been met.

The procedure for formal acceptance of a deliverable will have the following steps:

- a. Contractor will complete the deliverable and present documentation or other evidence thereof to the County.

- b. For major project deliverables, Contractor will meet with the County Project Manager in person or by telephone conference call to outline the content of the deliverable and provide any points of clarification.
 - c. A Deliverable Acceptance Statement (DAS) will be presented by the Contractor Project Manager to the County Project Manager.
 - d. The County Project Manager will review the DAS, confer with the appropriate team members, and sign and return the DAS indicating acceptance, or in the case of non-acceptance, documenting the reasons for the non-acceptance.
 - e. In the case of non-acceptance of a deliverable, Contractor will confirm receipt of the County's non-acceptance and provide a written response detailing the plan to address the non-acceptance issue(s).
 - f. The Contractor Project Manager will catalog the response on the Deliverable Register and, if the deliverable is not accepted, document the effect on the project in the next Project Status Report.
 - g. The County will make its best effort to approve, or reject project deliverables, or otherwise request an extension for deliverables. The timeframe for approval of the submitted DAS is also defined for each deliverable. In the event the County does not respond according to the defined acceptance period for a deliverable, Contractor will assume the deliverable is approved.
- 11.2 Deliverables List: Contractor will provide the deliverables described in the Deliverables List below. This Deliverables List is subject to revision in the Deliverables section of the Project Plan.

See Appendix B-1 System Feature List n

- 11.3 Final Project Acceptance
- a. Upon completion of all Deliverables, Contractor will present County with a Notice of Completion.
 - b. Upon receipt of the Notice of Completion, County will i) sign the Notice of Completion, indicating County's final acceptance of the project; or ii) submit in writing to Contractor notice of any errors that County believes exist within the Software.
 - c. If County has identified errors, Contractor will have a plan to correct any reproducible Priority 1, errors, as defined in Schedule C. If no Priority 1 errors exist, or if a plan to resolve has been delivered, then Contractor will provide a DAS to be executed by Customer to memorialize Acceptance.

12.0 Project Schedule

The chart below illustrates the timing and duration of the main activities and milestones of the project. The dates are estimates only as of the date of preparation of this Agreement. The chart is intended as an overview to aid in the general understanding of the project schedule. A more detailed schedule will be included in the Project Plan that falls within the overall structure of this summary schedule and that will be used as the working schedule for the project. The current implementation schedule calls for an **8 to 10** month deployment. The Project Schedule will be developed during the Project Initiation phase and will include analysis of the current business cycle before determining a System Cutover target date.

Analysis & Design	October 2015
Testing Hardware & Software Setup	December 2015
Nevada Specific Configuration Updates	May 2016
Training	May 2016
Final Testing	May 2016
Final Data Conversion	June 2016
System Cutover	June 2016

13.0 Additional Services

County and Contractor contemplate that the Implementation Plan will from time to time be amended during the project. All amendments to the Implementation Plan shall be made in writing on a change control request form and signed by the Project Manager for each party. Services requested of and provided by Contractor that are not within Contractor's obligations under this Agreement shall be subject to the applicable rates as described in Schedule E.

SCHEDULE E—SCHEDULE OF CHARGES AND PAYMENTS

1.0 License Fees

\$62,905

2.0 Implementation Costs

\$20,966

3.0 Escrow Fees

One Time Setup: \$500

Annual Fee: \$300

4.0 Maintenance and Support Fees

The maintenance and support fees for the Licensed Software are as follows;

Year One	Warranty
Year Two	\$12,581
Year Three	\$12,958
Year Four	\$13,347
Year Five	\$13,748
Year Six	\$14,160

The annual Maintenance and Support fee for Year One is included in the Total Project Charges and will be paid in accordance with the payment scheduled described in Section 6.1 of this Schedule E. Fees for subsequent years are due on the anniversary date of the date of Final Acceptance.

5.0 Payments

5.1	Contract Signed	\$17,871
	Completion of Analysis & Design phase	\$18,000
	Completion of Testing and hardware set up phase	\$18,000
	System Cutover	\$30,000

5.2 The contractual amounts described in this Schedule to be paid to Contractor constitute the entire compensation due Contractor and all of Contractor's obligations regardless of the difficulty, materials or equipment required. The contractual amount includes fees, licenses, overhead, profit and all other direct and indirect costs incurred or to be incurred by Contractor.

5.3 Any cost adjustments to the contract must be agreed upon by the parties by amending this contract. No claim for additional services, not specifically provided herein, will be allowed by County except to the extent provided by a valid amendment to this contract through the Change Request process.

5.4 Payment will be made by County upon receipt by County of invoices from Contractor. County will be allowed thirty days to process each payment.

- 5.5 The payment of an invoice by County will not prejudice County's right to object to or question that or any other invoice or matter in relation thereto. Contractor's invoice will be subject to reduction for amounts included in any invoice or payment made which are determined by County, on the basis of audits conducted in accordance with the terms of this contract, not to constitute allowable costs. Any payment will be reduced for overpayments, or increased for underpayments on subsequent invoices.
- 5.6 County reserves the right to deduct from amounts that are or will become due and payable to Contractor under this, or any contract between the parties, any amounts that are or will become due and payable to County by Contractor.
- 5.7 Reimbursement for Contractor staff travel and travel related costs associated with on-site work done in performance of this contract will be paid at the GSA Standard rate. Meals will be reimbursed on a per diem basis at the current GSA rate. Contractor will make every reasonable attempt to book air travel in advance to reduce costs. Payment for any travel costs that exceed the travel budget as agreed upon by the parties must be approved by County's Project Manager.

6.0 Payment Terms

All payments are due Net 30 Days following County's receipt of an accurate invoice.

SCHEDULE F—ESCROW AGREEMENT

escrowassociates[®]
BY APPOINTMENT

**Multi Licensee
Escrow Protection Certificate
Software Escrow Agreement**

Date	4/30/13
Licensor	[Teleosoft, Inc.]
Agreement Number	58898

Notice: The parties to this Agreement are obliged to inform Escrow Agent of any changes to the Software or in their circumstances (including change of name, principal office, contact details or change of Licensor of the Intellectual property in the Software).

Escrow Agreement Dated: 04/30/2013

Between:

- (1) [Telesoft, Inc.], a corporation organized under the laws of Pennsylvania whose principal office is at [1700 7th Ave, Suite 150 York, PA 17403] ("Licensor"); and
- (2) NCC Group Escrow Associates, LLC, a corporation organized and existing under the laws of Georgia with its principal office at 8302 Dunwoody Place, Suite 150, Atlanta GA 30360, USA ("Escrow Agent").

Background:

- (A) The Licensee has been granted a License to use the Software which comprises computer programs,
- (B) Certain technical information and/or documentation relating to the software package is the confidential information and intellectual property of the Licensor or a third party,
- (C) The Licensor acknowledges that in certain circumstances, such information and/or documentation would be required by the Licensee in order for it to continue to exercise its rights under the License Agreement,
- (D) The parties therefore agree that such information and/or documentation should be placed with a trusted third party, Escrow Agent, so that such information and/or documentation can be released to the Licensee should certain circumstances arise.

Agreement:

In consideration of the mutual undertakings and obligations contained in this Agreement, the parties agree that:

1 Definitions and Interpretation

- 1.1 In this Agreement the following terms shall have the following meanings:

"Agreement" means the terms and conditions of this escrow agreement set out below, including the schedules hereto.

"Confidential Information" means all technical and/or commercial information not in the public domain and which is designated in writing as confidential by any party together with all other information of any party which may reasonably be regarded as confidential information.

"Deposit Form" means the form at Schedule 1 which is to be completed by Licensor and delivered to Escrow Agent with each deposit of the Escrow Material.

"Escrow Material" means the Source Code of the Software and such other material and documentation (including updates and upgrades thereto and new versions thereof) as are necessary to be delivered or deposited to comply with clause 2 of this Agreement.

"Escrow Protection Certificate" means the certificate issued by Escrow Agent to the Licensee confirming escrow coverage pursuant to the terms and conditions of this Agreement.

"Full Verification" means the tests and processes forming Escrow Agent's Full Verification service and/or such other tests and processes as may be agreed between the parties for the verification of the Escrow Material.

"Intellectual Property Rights" mean any copyright, patents, design patents, registered designs, design rights, utility models, trademarks, service marks, trade secrets, know how, database rights, moral rights, confidential information, trade or business names, domain names, and any other rights of a similar nature including industrial and proprietary rights and other similar protected rights in any country or jurisdiction together with all registrations, applications to register and rights to apply for registration of any of the aforementioned rights and any licenses of or in respect of such rights.

"Letter of Intent" means the form completed by Licensor or Licensee containing the information to enable Escrow Agent to set up this Agreement or a Licensee Enrollment Form.

"License Agreement" means the agreement under which a Licensee was granted a license to use the Software.

"Licensee Enrollment Form" means the form at Schedule 2 confirming the Licensee's enrollment under this Agreement.

"Licensee" means any person, firm, company or other entity:

- 1.1.1 to whom a license to use the Software has been granted;
- 1.1.2 whom the Licensor has approved for registration under this Agreement by signing and returning to Escrow Agent a Licensee Enrollment Form; and
- 1.1.3 who has been issued with an Escrow Protection Certificate by Escrow Agent;

and references in this Agreement to the Licensee shall be to the relevant Licensee or Licensees given the context in which such reference is made.

"Release Purposes" means the purposes of understanding, maintaining, modifying and correcting the Software exclusively for and on behalf of the Licensee together with such other purposes (if any) as are permitted under the License Agreement.

"Software" means the software package together with any updates and upgrades thereto and new versions thereof licensed to the Licensee under the License Agreement details of which are set out in Schedule 1 as updated from time to time.

"Source Code" means the computer programming code of the Software in human readable form.

"Third Party Escrow Material" means Source Code which is not the confidential information and intellectual property of the Licensor or the Licensee.

1.2 This Agreement shall be interpreted in accordance with the following:

- 1.2.1 headings are for ease of reference only and shall not be taken into consideration in the interpretation of this Agreement;
- 1.2.2 all references to clauses and schedules are references to clauses and schedules of this Agreement; and
- 1.2.3 all references to a party or parties are references to a party or parties to this Agreement.

2 Licensor's Duties and Warranties

2.1 The Licensor shall:

- 2.1.1 deliver a copy of the Escrow Material to Escrow Agent within 90 days of enrollment of Licensee;
- 2.1.2 deliver an update or replacement copy of the Escrow Material to Escrow Agent within 90 days of a material update, error correction, enhancement, maintenance release or functional modification to the Software which results in an updated delivery of the object code version of the Software to Licensee;
- 2.1.3 ensure that each copy of the Escrow Material deposited with Escrow Agent comprises the Source Code of the latest version of the Software used by the Licensee;
- 2.1.4 deliver to Escrow Agent a replacement copy of the Escrow Material within 90 days after the anniversary of the last delivery of the Escrow Material to ensure that the integrity of the Escrow Material media is maintained;
- 2.1.5 deliver with each deposit of the Escrow Material the following information:
 - 2.1.5.1 details of the deposit including the full name of the Software (i.e. the original name as set out under schedule 1 together with any new names given to the Software by the Licensor), version details, media type, backup command/software used, compression used, archive hardware and operating system details; and
 - 2.1.5.2 password/encryption details required to access the Escrow Material;
- 2.1.6 deliver with each deposit of the Escrow Material the following technical information (where applicable):
 - 2.1.6.1 documentation describing the procedures for building, compiling and installing the software, including names and versions of the development tools;
 - 2.1.6.2 software design information (e.g. module names and functionality); and
 - 2.1.6.3 name and contact details of employees with knowledge of how to maintain and support the Escrow Material; and
- 2.1.7 deposit a detailed list of the suppliers of any third party software or tools required to access, install, build or compile or otherwise use the Escrow Material.

2.2 The Licensor warrants to both Escrow Agent and the Licensee at the time of each deposit of the Escrow Material with Escrow Agent that:

- 2.2.1 it has the full right, ability and authority to deposit the Escrow Material;
- 2.2.2 in entering into this Agreement and performing the obligations under it, it is not in breach of any of its ongoing express or implied obligations to any third party(s); and
- 2.2.3 the Escrow Material deposited under Clause 2.1 contains all information in human-readable form and is on suitable media to enable a reasonably skilled programmer or analyst to understand, maintain, modify and correct the Software.

2.3 When customer of Licensor becomes eligible under a License Agreement to be designated as a beneficiary of the Licensor's escrow protection, Licensor shall forward to Licensee a copy of this executed Escrow Agreement. Subsequently, Licensor shall forward to Escrow Agent a completed Licensee Enrollment Form thereby requesting that customer's registration into this escrow account as Licensee. Licensor shall be solely responsible for informing Escrow Agent as to any changes which affect the Licensee's rights under this Escrow Agreement, including providing Escrow Agent any updates to the Licensee's contact information.

3 Escrow Agent's Duties

3.1 Escrow Agent shall:

- 3.1.1 at all times during the term of this Agreement, retain the latest deposit of the Escrow Material in a safe and secure environment.

- 3.1.2 notify Licensor and the relevant Licensees of the acceptance of any Licensee Enrollment form; and
- 3.1.3 inform Licensor of the receipt of any deposit of Escrow Material by sending the Licensor a copy of the Deposit Form and/or an acknowledgment letter, as the case may be.
- 3.2 In the event of failure by the Licensor to deposit any Escrow Material with Escrow Agent, Escrow Agent shall not be responsible for procuring such deposit and may, at its sole discretion, notify the Licensor of the Licensor's failure to deposit any Escrow Material.
- 3.3 Escrow Agent may appoint agents, contractors or sub-contractors as it deems fit to carry out the Full Verification process. Escrow Agent shall ensure that any such agents, contractors and sub-contractors are bound by the same confidentiality obligations as are contained in clause 7.
- 3.4 Escrow Agent has the right to make such copies of the Escrow Material as may be necessary solely for the purposes of this Agreement.
- 4 Payment**
 - 4.1 The parties shall pay Escrow Agent's standard fees and charges as published from time to time or as otherwise agreed. Escrow Agent's fees as published are exclusive of any applicable sales tax.
 - 4.2 If Escrow Agent is required to perform any additional or extraordinary services as a result of being an escrow agent including intervention in any litigation or proceeding, Escrow Agent shall receive reasonable compensation for such services from the Licensor unless agreed otherwise and be reimbursed for all costs incurred, including reasonable attorney's fees.
 - 4.3 Escrow Agent shall be entitled to review and vary its standard fees and charges for its services under this Agreement from time to time but no more than once a year and only upon 45 days written notice to the parties.
 - 4.4 All invoices are payable within 30 days from the date of invoice. Interest shall accrue at the lesser of 1.5% per month or the maximum amount permitted by applicable law for any fees that are undisputed by the paying party and remain unpaid for more than 30 days past the due date of the applicable invoice.
 - 4.5 In the event of a dispute made in good faith as to the amount of fees, the party responsible for payment agrees to remit payment on any undisputed amount(s) in accordance with Clause 4.1 above. In such circumstances, the interest on the fees shall not accrue as to any disputed amounts unless not paid within 30 days after such dispute has been resolved by the parties.
 - 4.6 Escrow Agent shall have no obligations under this Agreement until the initial invoice has been paid in full.
- 5 Release Events**
 - 5.1 Subject to: (i) the remaining provisions of this clause 5 and (ii) the receipt by Escrow Agent of its release fee and any other fees and interest (if any) outstanding under this Agreement and (iii) the receipt by Escrow Agent of a signed Notice of the occurrence of a release event which requests a release of the Escrow Deposit ("Release Request", as illustrated in Schedule 3 hereto) and pledges to indemnify Escrow Agent for acting on such request, Escrow Agent will release the Escrow Material to a duly authorized officer of the Licensor if any of the following events ("Release Event(s)") occur:
 - 5.1.1 Licensor files a petition in bankruptcy, files a petition seeking any reorganization (without confirming immediately in writing to Licensee that it will continue to maintain the Software in accordance with the terms of the License Agreement or any applicable maintenance agreement), makes an arrangement, composition, or similar relief under any law regarding insolvency or relief for debtors, or makes an assignment for the benefit of creditors; or
 - 5.1.2 any involuntary petition or proceeding under bankruptcy or insolvency laws is instituted against Licensor and not stayed, enjoined, or discharged within 60 days; or
 - 5.1.3 Licensor takes any corporate action authorizing any of the foregoing; or
 - 5.1.4 Licensor ceases to carry on its business or the part of its business which relates to the Software; or
 - 5.1.5 Licensor or, where relevant, its agent, parent, subsidiary or associated company is in material breach of its obligations as to maintenance or modification of the Software under the License Agreement or any maintenance agreement entered into in connection with the Software and has failed to remedy such default notified by Licensee to Licensor within a reasonable period.
 - 5.1.6 Licensor has provided Licensee and Escrow Agent with written authorization to release the Escrow Material to the named Licensee.
 - 5.2 The Licensee must notify Escrow Agent, with a copy to the Licensor, of the Release Event specified in Clause 5.1 by delivering to Escrow Agent a notice in writing ("Notice") as defined in Schedule 3 attached hereto declaring that such Release Event has occurred, setting out the facts and circumstances of the Release Event, that the License Agreement and any maintenance agreement, if relevant, for the Software was still valid and effective up to the occurrence of such Release Event and exhibiting such documentary evidence in support of the Notice as Escrow Agent shall reasonably require.
 - 5.3 Upon receipt of a Notice from Licensee claiming that a Release Event has occurred:
 - 5.3.1 Escrow Agent shall submit a copy of the Notice to Licensor (with a copy to the Licensee in order to acknowledge receipt of the Notice) by courier or other form of guaranteed delivery; and
 - 5.3.2 unless within 30 calendar days after the date of dispatch of the Notice from Escrow Agent, Escrow Agent receives a counter-notice in writing from Licensor stating that in their view no such Release Event has occurred or, if appropriate, that the event or circumstance giving rise to the Release

Event has been rectified as shown by documentation in support thereof.

Escrow Agent will release the Escrow Material to Licensee for its use for the Release Purposes.

- 5.4 Upon receipt of the counter-notice from Licensor under Clause 5.3.2, Escrow Agent shall send a copy of the counter-notice and any supporting evidence to Licensee (with a copy to Licensor in order to acknowledge receipt of the counter-notice) by courier or other form of guaranteed delivery.
- 5.5 Within 90 days of dispatch of the counter-notice by Escrow Agent, Licensee may give notice to Escrow Agent that they wish to invoke the dispute resolution procedure under Clause 6.
- 5.6 If, within 90 days of dispatch of the counter-notice by Escrow Agent to Licensee, Escrow Agent has not been informed by Licensee that they wish the dispute resolution procedure under Clause 6 to apply, the Notice submitted by Licensee will be deemed to be no longer valid and Licensee shall be deemed to have waived their right to release of the Escrow Material for the particular reason or event specified in the original Notice. In such circumstances, this Agreement shall continue in full force and effect.

6 Disputes

- 6.1 Upon receipt of Licensee's notice requesting dispute resolution pursuant to Clause 5.5 above, Escrow Agent shall notify Licensor of the Licensee's request for dispute resolution. Licensor and Licensee shall submit their dispute to expedited binding arbitration in the state specified under the License Agreement under Commercial Arbitration Rules of the American Arbitration Association by one arbitrator appointed by the said rules. The decision of the arbitrator shall be final and binding upon the parties and enforceable in any court of competent jurisdiction, and a copy of such decision shall be delivered immediately to Licensor, Licensee and Escrow Agent. The parties shall use their best efforts to commence the arbitration proceedings within 14 days following delivery of the counter-notice. The sole question to be determined by the arbitrator shall be whether or not there existed a Release Event at the time Licensee delivered the Notice to Escrow Agent.
- 6.2 If the arbitrator finds that a Release Event existed at the time of delivery of the Notice to Escrow Agent, Escrow Agent is hereby authorized to release and deliver the Escrow Material to the Licensee within 5 working days of the decision being notified by the arbitrator to the parties. If the arbitrator finds to the contrary, then Escrow Agent shall not release the Escrow Material and shall continue to hold it in accordance with the terms of this Agreement.
- 6.3 The parties hereby agree that the costs and expenses of the arbitrator, the reasonable attorneys' fees and costs incurred by the prevailing party in the arbitration and any costs incurred by Escrow Agent in the arbitration shall be paid by the non-prevailing party.

7 Confidentiality

- 7.1 The Escrow Material shall remain at all times the confidential and intellectual property of its owner.
- 7.2 In the event that Escrow Agent releases the Escrow Material to Licensee, Licensee shall be permitted to use the Escrow Material only for the Release Purposes.
- 7.3 Subject to Clause 7.4, Escrow Agent agrees to keep all Confidential Information relating to the Escrow Material and/or the Software that comes into its possession or to its knowledge under this Agreement in strict confidence and secrecy. Escrow Agent further agrees not to make use of such information and/or documentation other than for the purposes of this Agreement and, unless the parties should agree otherwise in writing and subject to Clause 7.4, will not disclose or release it other than in accordance with the terms of this Agreement.
- 7.4 Escrow Agent may release the Escrow Material to the extent that it is required by applicable federal, state or local law, regulation, court order, judgment, decree or other legal process, provided that Escrow Agent has notified Licensor and Licensee prior to such required release, has given Licensor and/or Licensee an opportunity to contest (at their own expense) such required release, within the time parameters mandated by such applicable regulation, court order, judgment, decree or other legal process. Escrow Agent is hereby expressly authorized in its sole discretion to obey and comply with all orders, judgments, decrees so entered or issued by any court, without the necessity of inquiring as to the validity of such order, judgment or decree, or the court's underlying jurisdiction. Where Escrow Agent obeys or complies with any such order, judgment or decree, Escrow Agent shall not be liable to Licensee, Licensor or any third party by reason of such compliance, notwithstanding that such order, judgment or decree may subsequently be reversed, modified or vacated.
- 7.5 Any request by a Licensee under Clause 9.3 for a Full Verification shall not be disclosed to any other Licensee(s) except as the requesting Licensee agrees.

8 Intellectual Property Rights

- 8.1 The release of the Escrow Material to the Licensee will not act as an assignment of any Intellectual Property Rights that the Licensor or any third party possesses in the Escrow Material.
- 8.2 The Intellectual Property Rights in any Full Verification report shall remain vested in Escrow Agent. The Licensor and the party who commissioned the Full Verification shall each be granted a non-exclusive right and license to use the report for the purposes of this Agreement and their own internal purposes only.

9 Full Verification

- 9.1 Escrow Agent shall bear no obligation or responsibility to any party to this Agreement or person, firm, company or entity whatsoever to determine the existence, relevance, completeness, accuracy, operation, effectiveness, functionality or any other aspect of the Escrow Materials received by Escrow Agent under this Agreement.
- 9.2 Any party to this Agreement, including named Licensees, shall be entitled to require Escrow Agent to carry out a Full Verification. Subject to clause 8.3, Escrow Agent's prevailing fees and charges for the Full Verification processes and all reasonable expenses incurred by Escrow Agent in carrying out the Full Verification processes

shall be payable by the requesting party.

- 9.3 Should the Escrow Material deposited fail to satisfy Escrow Agent's Full Verification test, the Licensor shall, within 14 days of the receipt of the notice of test failure from Escrow Agent, deposit such new, corrected or revised Escrow Material as shall be necessary to ensure its compliance with its warranties and obligations in clause 2. If the Licensor fails to make such deposit of the new, corrected or revised Escrow Material, Escrow Agent will issue a report to the Licensee detailing the problem with the Escrow Material as revealed by the relevant tests.

10 Escrow Agent's Liability

- 10.1 Nothing in this Clause 10 excludes or limits the liability of Escrow Agent for gross negligence or intentional misconduct.
- 10.2 Subject to Clause 10.1, Escrow Agent shall not be liable for:
- 10.2.1 any loss or damage caused to either Licensor or Licensee except to the extent that such loss or damage is caused by the negligent acts or omissions of or a breach of any contractual duty by Escrow Agent, its employees, agents or sub-contractors and in such event Escrow Agent's total liability with regard to all claims arising under or by virtue of this Agreement or in connection with the performance or contemplated performance of this Agreement, shall not exceed the sum of \$100,000 (one hundred thousand US dollars); and
 - 10.2.2 any special, indirect, incidental or consequential damages whatsoever.
- 10.3 Escrow Agent shall not be responsible in any manner whatsoever for any failure or inability of Licensor or Licensee to perform or comply with any provision of this Agreement.
- 10.4 Escrow Agent shall not be liable in any way to Licensor or Licensee for acting in accordance with the terms of this Agreement and specifically (without limitation) for acting upon any notice, written request, waiver, consent, receipt, statutory declaration or any other document furnished to it pursuant to and in accordance with this Agreement.
- 10.5 Escrow Agent shall not be required to make any investigation into and shall be entitled in good faith without incurring any liability to Licensor or Licensee to assume (without requesting evidence thereof) the validity, authenticity, veracity and due and authorized execution of any documents, written requests, waivers, consents, receipts, statutory declarations or notices received by it in respect of this Agreement.

11 Indemnity

Licensor agrees to defend and indemnify Escrow Agent and to hold Escrow Agent harmless from and against any claims, suits or other proceedings, actions, losses, costs, liabilities or expenses incurred in connection with the defense thereof (including reasonable attorney's fees), in each case which may be imposed on, or incurred by or asserted against Escrow Agent in any way arising out of or relating to this Agreement, provided that Licensor shall not be liable for that portion of any such indemnification amount resulting from Escrow Agent's negligence or intentional misconduct.

12 Term and Termination

- 12.1 This Agreement shall continue until terminated in accordance with this Clause 12.
- 12.2 If Licensor or Licensee, as the case may be, fails to pay an invoice addressed to it for services under this Agreement within 30 days of its issue, Escrow Agent reserves the right to give that party written notice to pay the outstanding invoice within 30 days. If Licensor has not paid its invoice by the expiry of the 30 day notice period, Escrow Agent will give Licensee(s) a period of 30 days to pay Licensor's invoice. If Licensor or Licensee (as appropriate) has not paid its invoice after being given notice in accordance with this Clause, Escrow Agent shall have the right to terminate this Agreement or the registration of Licensee (as appropriate) without further notice. Any amounts owed by Licensor but paid by Licensee(s) will be recoverable by Licensee(s) direct from Licensor as a debt and, if requested, Escrow Agent shall provide appropriate documentation to assist in such recovery.
- 12.3 Upon termination of this Agreement in its entirety under the provisions of Clause 12.2 Escrow Agent has the authority to destroy the Escrow Material.
- 12.4 Notwithstanding any other provision of this Clause 12, Escrow Agent may resign as Escrow Agent hereunder and terminate this Agreement by giving sixty (60) days written notice to Licensor and Licensee(s). In the event that it is terminated in its entirety, Licensor and Licensee(s) shall appoint a mutually acceptable new custodian on similar terms and conditions to those contained herein. If a new custodian is not appointed within 14 days of delivery of such notice, Licensor or Licensee(s) shall be entitled to request the American Arbitration Association to appoint a suitable new custodian upon terms and conditions consistent with those in this Agreement. Such appointment shall be final and binding on Licensor and Licensee(s). If Escrow Agent is notified of the new custodian within the notice period, Escrow Agent will forthwith deliver the Escrow Material to the new custodian. If Escrow Agent is not notified of the new custodian within the notice period and this Agreement has been terminated in its entirety, Escrow Agent will return the Escrow Material to Licensor.
- 12.5 Licensee may terminate this Agreement in respect of itself only at any time by giving sixty (60) days prior written notice to Escrow Agent.
- 12.6 If the License Agreement with a Licensee has expired or has been lawfully terminated, then Licensor shall be entitled to give written notice to Escrow Agent to terminate the relevant Licensee's interests under this Agreement. Upon receipt of such a notice from Licensor, Escrow Agent shall notify the Licensee of the notice to terminate. The Licensee shall have sixty (60) days to dispute the fact that the License Agreement has been terminated by providing such counter-notice in writing to Licensor and Escrow Agent. Any disputes arising

under this Clause shall be dealt with in accordance with the dispute resolution procedure in Clause 6. Upon termination of the entire agreement under this Clause, Escrow Agent shall return the Escrow Material to Licensor.

- 12.7 Subject to Clause 12.8, Licensor may only terminate this Agreement in its entirety by providing Escrow Agent with proper notice to terminate all registered Licensees. Such termination will be effective as of sixty (60) days after Escrow Agent informs all such Licensees of the impending termination.
- 12.8 This Agreement shall immediately terminate in respect of a Licensee upon release of the Escrow Material to that Licensee in accordance with Clause 5.
- 12.9 The termination of this Agreement in respect of a Licensee shall be without prejudice to the continuation of this Agreement in respect of any other Licensees.
- 12.10 If any terminations of Licensees' interests under this Agreement result in there being no Licensees registered under this Agreement, unless otherwise instructed by Licensor, this Agreement will continue and the Escrow Material will be retained by Escrow Agent pending registration of other Licensees.
- 12.11 The provisions of Clauses 1, 2.2, 4, 7, 8, 9.1, 10, 11, 12.13 to 12.15 (inclusive) and 13 shall continue in full force after termination of this Agreement.
- 12.12 On and after termination of this Agreement, Licensor and/or Licensee(s) (as appropriate) shall remain liable to Escrow Agent for payment in full of any fees and interest which have become due but which have not been paid as at the date of termination.
- 12.13 The termination of this Agreement, however arising, shall be without prejudice to the rights accrued to the parties prior to termination.

13 General

- 13.1 Licensor and Licensee(s) shall notify Escrow Agent and each other, within 30 days of its occurrence, of any of the following:
 - 13.1.1 a change of its name, principal office, contact address or other contact details; and
 - 13.1.2 any material change in its circumstances that may affect the validity or operation of this Agreement.
- 13.2 This Agreement shall be deemed entered into in Pennsylvania and will be governed by and construed according to the laws of the state of Pennsylvania, excluding that body of law known as conflict of law. The parties agree that any dispute arising under this Agreement will be resolved in the state or federal courts in Pennsylvania and the parties hereby expressly consent to the jurisdiction thereof.
- 13.3 This Agreement together with, in respect of each Licensee, their Licensee Enrollment Form, and any relevant Escrow Agent standard terms and conditions including Escrow Agent escrow terms and conditions and, where applicable, Escrow Agent verification terms and conditions represent the whole agreement relating to the escrow arrangements between Escrow Agent and the other parties for the Software and shall supersede all prior agreements, discussions, arrangements, representations, negotiations and undertakings. In the event of any conflict between any of these documents, the terms of this Agreement shall prevail.
- 13.4 Unless the provisions of this Agreement otherwise provide, any notice or other communication required or permitted to be given or made in writing hereunder shall be validly given or made if delivered by hand or courier or if dispatched by certified or registered mail (airmail if overseas) addressed to the address specified for the parties in this Agreement or their Registration Agreement (or such other address as may be notified to the parties from time to time) or if sent by facsimile message to such facsimile number as has been notified to the parties from time to time and shall be deemed to have been received:
 - (i) if delivered by hand or courier, at the time of delivery;
 - (ii) if sent by certified or registered mail (airmail if overseas), 3 business days after posting (8 days if sent by airmail);
 - (iii) if sent by facsimile, at the time of completion of the transmission of the facsimile with facsimile machine confirmation of transmission to the correct facsimile number of all pages of the notice.
- 13.5 Except where Licensor or Licensee merges, is acquired or has substantially all of its assets acquired and the new entity or acquirer agrees to assume all of their obligations and liabilities under this Agreement, Licensor and Licensee shall not assign, transfer or subcontract this Agreement or any rights or obligations hereunder without the prior written consent of the other parties.
- 13.6 Escrow Agent shall be entitled to transfer or assign this Agreement upon written notice to both Licensor and all Licensees.
- 13.7 This Agreement shall be binding upon and survive for the benefit of the successors in title and permitted assigns of the parties.
- 13.8 If any provision of this Agreement is declared too broad in any respect to permit enforcement to its full extent, the parties agree that such provision shall be enforced to the maximum extent permitted by law and that such provision shall be deemed to be varied accordingly. If any provision of this Agreement is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, or unenforceable, it shall, to the extent of such illegality, invalidity or unenforceability, be deemed severable and the remaining part of the provision and the rest of the provisions of this Agreement shall continue in full force and effect.
- 13.9 Save as expressly provided in this Agreement, no amendment or variation of this Agreement shall be effective unless in writing and signed by a duly authorized representative of both the Licensor and Escrow Agent.

- 13.10 The parties shall not be liable to each other or be deemed to be in breach of this Agreement by reason of any delay in performing, or failure to perform, any of their obligations under this Agreement if the delay or failure was for a reason beyond that party's reasonable control (including, without limitation, fire, flood, explosion, epidemic, riot, civil commotion, any strike, lockout or other industrial action, act of God, war or warlike hostilities or threat of war, terrorist activities, accidental or malicious damage, or any prohibition or restriction by any government or other legal authority which affects this Agreement and which is not in force on the date of this Agreement). A party claiming to be unable to perform its obligations under this Agreement (either on time or at all) in any of the circumstances set out above must notify the other parties of the nature and extent of the circumstances in question as soon as practicable. If such circumstances continue for more than six months, any of the other parties shall be entitled to terminate this Agreement by giving one month's notice in writing.
- 13.11 No waiver by any party of any breach of any provisions of this Agreement shall be deemed to be a waiver of any subsequent or other breach and, subject to Clause 5.6, no failure to exercise or delay in exercising any right or remedy under this Agreement shall constitute a waiver thereof.
- 13.12 This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.

Signed for and on behalf of [Tereosoft, Inc.]

Name: *James T. Gotsch*Position: *President*

(Authorized Signatory)

Date: *4/30/2013*

Signed for and on behalf of NCC Group Escrow Associates, LLC

Name: *Timothy J. ...*Position: *General Counsel*

(Authorized Signatory)

Date: *4/30/13*

Schedule 1 (Deposit Form)

Agreement Number **58898**

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Version 2013