



County of Santa Clara
Office of the County Executive
Procurement Department
2310 N. First Street Suite 201
San Jose, CA 95131-1040
Telephone 408-491-7400 • Fax 408-491-7496

**AGREEMENT BETWEEN THE COUNTY OF SANTA CLARA AND [CONTRACTOR]
FOR GOODS AND RELATED SERVICES**

This Agreement is entered into by and between the County of Santa Clara (the "County") and Computer Deductions, Incorporated ("Contractor") (the "Agreement").

The effective date of the Agreement is February 1, 2010. The parties, intended to be bound, mutually agree as follows:

KEY PROVISIONS

AGREEMENT TITLE: CTMC System Software Maintenance

AGREEMENT NUMBER: 5500001918

INITIAL AWARD DATE: February 1, 2010

AGREEMENT TERM: February 1, 2010 through January 31, 2011, unless terminated earlier or otherwise amended, with option by County to renew for four additional one-year periods}

COMMODITY NAME: Maintenance, Software Licensing

AUTHORIZED USER: Office of the Sheriff
55 West Younger Avenue
San Jose, California 95110

COUNTY DEPARTMENT CONTACT: Bruce Overoye at 408-808-4610 or bruce.overoye@sho.co.scl.ca.us

SUPPLIER: Computer Deductions, Inc.
8680 Greenback Lane, Suite 210
Orangevale, California 95661

SUPPLIER CONTACT: Thomas J. Calabro, Vice President
916-599-3699 or tcalabro@ci-hq.com

SUPPLIER NUMBER: 1013323

PURPOSE: To establish a contract with Computer Deductions, Inc. to provide software maintenance on the CTMC System as required by the Office of the Sheriff.

TAX STATUS: Non-taxable/electronic download.

TOTAL AGREEMENT VALUE: \$11,550.00

COUNTY CONTRACT ADMINISTRATOR: Julie Toy, 408-491-7407 or Julie.toy@proc.sccg.org.

REFERENCE: The following exhibits are incorporated and constitute a material part of the Agreement:

Exhibit A: County of Santa Clara Standard Terms and Conditions for Agreement for Goods and Related Services.

Exhibit B: Pricing Summary

Exhibit C: Vendor Remote Access and User Responsibility

Exhibit D: Insurance Requirements

Exhibit E: Maintenance Agreement

By signing below, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity, that he/she has the authority to bind the entity listed below to contractual obligations and that by his/her signature on this Agreement, the entity on behalf of which he/she acted, executed this Agreement.

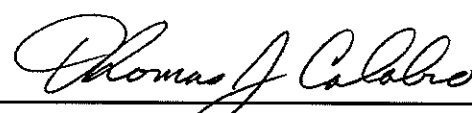
COUNTY OF SANTA CLARA



✓ By: Jenti Vandertuig
Director of Procurement

Date: 3/1/10

CONTRACTOR



By: **Thomas J. Calabro**
Vice President
Computer Deductions Inc.

Date: _____



EXHIBIT A
COUNTY OF SANTA CLARA STANDARD TERMS AND CONDITIONS
FOR AGREEMENT FOR GOODS AND RELATED SERVICES

1. NON-EXCLUSIVE AGREEMENT

The Agreement does not establish an exclusive contract between the County and the Contractor. The County expressly reserves rights to, without limitation, the following: the right to utilize others to provide products, support and services; the right to request proposals from others with or without requesting proposals from the Contractor; and the unrestricted right to bid any such product, support or service.

2. PRODUCTS

Contractor agrees to provide the County all goods on terms set forth in the Agreement, including all Exhibits that are attached to the Agreement and incorporated, as well as all necessary equipment and resources. However, this Agreement does not provide authority to ship goods. That authority shall be established by contract release purchase orders placed by the County and sent to Contractor throughout the term of the Agreement. Each and every contract release purchase order shall incorporate all terms of this Agreement and this Agreement shall apply to same.

ANY ADDITIONAL OR DIFFERENT TERMS OR QUALIFICATIONS SENT BY CONTRACTOR, INCLUDING, WITHOUT LIMITATION, IN MAILINGS, ATTACHED TO INVOICES OR WITH ANY GOODS SHIPPED, SHALL NOT BECOME PART OF THE CONTRACT BETWEEN THE PARTIES. COUNTY'S ACCEPTANCE OF CONTRACTOR'S OFFER IS EXPRESSLY MADE CONDITIONAL ON THIS STATEMENT.

Contractor shall provide to the County, all documentation and manuals relevant to the goods to be supplied, at no additional cost. Such documentation and shall be delivered either in advance of the delivery of goods or concurrently with the delivery of goods.

Employees and agents of Contractor, shall, while on the premises of the County, comply with all rules and regulations of the premises, including, but not limited to, security requirements.

If required, Contractor shall be responsible for installation, training and knowledge transfer activities in relation to the goods being supplied.

All equipment shall be delivered to a County site specified in the contract release purchase order, or if not so specified therein, in the Statement of Work/Specifications.

Contractor holds itself out as an expert in the subject matter of the Agreement. Contractor represents itself as being possessed of greater knowledge and skill in this area than the average person. Accordingly, Contractor is under a duty to exercise a skill greater than that of an ordinary person, and the manner in which performance is rendered will be evaluated in light of the Contractor's superior skill. Contractor shall provide equipment and perform work in a professional manner consistent, at minimum, with industry standards.



Contractor represents that all prices, warranties, benefits and other terms being provided hereunder are fair, reasonable and commensurate with the terms otherwise being offered by Contractor to its current customers ordering comparable goods and services.

County does not guarantee any minimum orders.

3. NECESSARY ACTS AND FURTHER ASSURANCES

The Contractor shall at its own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

4. COUNTING DAYS

Days are to be counted by excluding the first day and including the last day, unless the last day is a Saturday, a Sunday, or a legal holiday, and then it is to be excluded.

5. PRICING

Unless otherwise stated, prices shall be fixed for the term of the Agreement, including all extensions. If any product listed in this Agreement is discontinued or upgraded prior to delivery, Contractor shall extend the same pricing towards a comparable replacement which is functionally equivalent or an upgraded version.

Exhibit B of the Agreement is the basis for pricing and compensation throughout the term of the Agreement.

Notwithstanding the above, if at any time during the term of the Agreement the Contractor offers special, promotional or reduced pricing when compared with the price paid by the County, County shall benefit from that pricing, and that pricing shall apply to the County at the same time that is offered to other entities. Contractor is required, on an ongoing basis, to inform the County of any such special, promotional or reduced pricing.

6. MODIFICATION

This Agreement or any contract release purchase order may be supplemented, amended, or modified only by the mutual agreement of the parties. No supplement, amendment, or modification of this Agreement contract release purchase order will be binding on County unless it is in writing and signed by County's Procurement Director.

7. TIME OF THE ESSENCE

Time is of the essence in the delivery of goods by Contractor under this Agreement and any contract release purchase order. In the event that the Contractor fails to deliver goods and/or services on time, the Contractor shall be liable for any costs incurred by the County because of Contractor's delay. For instance, County may purchase or obtain the goods and/or services elsewhere and the Contractor shall be liable for the difference



between the price in the Agreement and the cost to the County; or County may terminate on grounds of material and Contractor shall be liable for County's damages.

The Contractor shall promptly reimburse the County for the full amount of its liability, or, at County's option, the County may offset such liability from any payment due to the Contractor under any contract with the County.

The rights and remedies of County provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law. The acceptance by County of late or partial performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the rights or requirements for the complete and timely performance of any obligation remaining to be performed by the Contractor, or of any other claim, right or remedy of the County.

8. HAZARDOUS SUBSTANCES

If any product being offered, delivered or supplied to the County is listed in the Hazardous Substances List of the Regulations of the Director of Industrial Relations with the California Occupational Safety and Health Standards Board, or if the product presents a physical or health hazard as defined in the California Code of Regulations, General Industry Safety Order, Section 5194 (T8CCR), Hazard Communication, the Contractor must include a Material Safety Data Sheet (MSDS) with delivery, or shipment. Each MSDS must reference the contract/purchase order number, and identify the "Ship To Address". All shipments and containers must comply with the labeling requirements of Title 49, Code of Federal Regulations by identifying the hazardous substance, name and address of manufacturer, and appropriate hazard warning regarding potential physical safety and health hazard.

9. SHIPPING AND RISK OF LOSS

Goods shall be packaged, marked and otherwise prepared by Contractor in suitable containers in accordance with sound commercial practices. Contractor shall include an itemized packing list with each shipment and with each individual box or package shipped to the County. The packing list shall contain, without limitation, the applicable contract release purchase order number.

Unless otherwise specified in writing, all shipments by Contractor to County will be F.O.B. point of destination. Freight or handling charges are not billable unless such charges are referenced on the order. Transportation receipts, if required by contract release purchase order, must accompany invoice. Regardless of F.O.B. point, Contractor agrees to bear all risks of loss, injury, or destruction to goods and materials ordered herein which occur prior to delivery at County's destination; and such loss, injury or destruction shall not release Contractor from any obligation hereunder.

Any shipments returned to the Contractor shall be delivered as F.O.B. shipping point.

10. INSPECTION AND RELATED RIGHTS

All goods and services are subject to inspection, testing, approval and acceptance by the County. Inspection shall be made within 60 days or a reasonable time after delivery, whichever period is longer. If the goods, services, or the tender of delivery fail in any respect to conform to the contract, the County may reject the entire tender, accept the



entire tender, or, if the deliverables are commercially divisible, may, at its option, accept any commercial unit or units and reject the rest.

Contractor shall be responsible to reclaim and remove any rejected goods or items at its own expense. Should Contractor fail to reclaim or remove any rejected goods or items within a reasonable time, County shall, at its option dispose of such goods or items and require reimbursement from Contractor for any costs or expenses incurred.

In the event that the Contractor's goods are not accepted by County, the Contractor shall be liable for any costs incurred by the County because of such failure by Contractor. For instance, County may purchase or obtain the goods elsewhere and the Contractor shall be liable for the difference between the price in the Agreement and the cost to the County, and any other costs incurred; or County may terminate for cause on grounds of material breach and Contractor shall be liable for County's damages.

The Contractor shall promptly reimburse the County for the full amount of its liability, or, at County's option, the County may offset such liability from any payment due to the Contractor under any contract with the County.

The rights and remedies of County provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law. The acceptance by County of late or partial performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the rights or requirements for the complete and timely performance of any obligation remaining to be performed by the Contractor, or of any other claim, right or remedy of the County.

11. ADJUSTMENT BY COUNTY

The County reserves the right to waive a variation in specification of goods or services supplied by the Contractor. Contractor may request an equitable adjustment of payments to be made by County if County requires a change in the goods or services to be delivered. Any claim by the Contractor for resulting adjustment of payment must be asserted within 30 days from the date of receipt by the Contractor of the notification of change required by County; provided however, that the Procurement Director, if he/she decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment made for goods and services supplied by Contractor. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Purchasing Director shall have the right to prescribe the manner of disposition of such property. Nothing in this clause shall excuse performance by Contractor.

12. INVOICING

Contractor shall invoice according to Exhibit B of the Agreement. Invoices shall be sent to the County customer or department referenced in the individual contract release purchase order. Invoices for goods or services not specifically listed in the Agreement will not be approved for payment.

Invoices shall include: Contractor's complete name and remit-to address; invoice date, invoice number, and payment term; County contract number; pricing per the Agreement; applicable taxes; and total cost.

Contractor and County shall make reasonable efforts to resolve all invoicing disputes within seven (7) days.

13. AVAILABILITY OF FUNDING

The County's obligation for payment of any contract beyond the current fiscal year end is contingent upon the availability of funding and upon appropriation for payment to the Contractor. No legal liability on the part of the County shall arise for payment beyond June 30 of the calendar year unless funds are made available for such performance.

14. PAYMENT

Payment shall be due Net 30 days from the date of acceptance of the goods ordered, or Net 30 days from the date of approval by County of correct and proper invoices, whichever date is later. Payment is deemed to have been made on the date when the County mails the warrant or initiates the electronic fund transfer.

Notwithstanding anything to the contrary, County shall not make payments prior to receipt of goods or services (i.e. the County will not make "advance payments"). Unless specified in writing in a contract release purchase order, the County will not accept partial delivery with respect to any purchase order. Any acceptance of partial delivery shall not waive any of County's rights.

Sales tax shall be noted separately on every invoice. Items that are not subject to sales tax shall be clearly identified.

Contractor shall be responsible for payment of all state and federal taxes assessed on the compensation received under this Agreement and such payment shall be identified under the Contractor's federal and state identification number(s).

The County does not pay Federal Excise Taxes (F.E.T). The County will furnish an exemption certificate in lieu of paying F.E.T. Federal registration for such transactions is: County #94-730482K. Contractor shall not charge County for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose, unless expressly authorized by the County.

15. LATE PAYMENT CHARGES OR FEES

The Contractor acknowledges and agrees that the County will not pay late payment charges.

16. DISALLOWANCE

In the event the Contractor receives payment for goods or services, which payment is later disallowed by the County or state or federal law or regulation, the Contractor shall promptly refund the disallowed amount to the County upon notification. At County's option, the County may offset the amount disallowed from any payment due to the Contractor under any contract with the County.

17. TERMINATION FOR CONVENIENCE

The County may terminate this Agreement or any contract release purchase order at any time for the convenience of the County by giving at least thirty (30) days written notice prior to the intended date of termination specifying the effective date and scope of such termination. If County determines that the Contractor's actions contribute to the curtailment of an essential service or pose an immediate threat to life, health or property, County may terminate this Agreement immediately without penalty upon issuing either oral or written notice to the Contractor and without any opportunity to cure.

In no event shall the County be liable for costs incurred by the Contractor as a result of the termination or any loss of profits on the resulting order or portion thereof so terminated.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other materials (collectively referred to as "materials") prepared by Contractor under this Agreement contract release purchase order shall become the property of the County and shall be promptly delivered to the County. Upon receipt of such materials, County shall pay the Contractor as full compensation for performance, the unit or pro rata price for the then-accepted portion of goods and/or services.

18. TERMINATION FOR CAUSE

County may terminate this Agreement or any contract release purchase order, in whole or in part, for cause upon thirty (30) days written notice to Contractor. For purposes of this Agreement, cause includes, but is not limited to, any of the following: (a) material breach of this Agreement or any contract release purchase order by Contractor, (b) violation by Contractor of any applicable laws or regulations; (c) assignment or delegation by Contractor of the rights or duties under this Agreement without the written consent of County or (d) less than perfect tender of delivery or performance by Contractor that is not in strict conformance with terms, conditions, specifications, covenants, representations, warranties or requirements in this Agreement or any contract release purchase order.

In the event of such termination, the Contractor shall be liable for any costs incurred by the County because of Contractor's default. The Contractor shall promptly reimburse the County for the full amount of its liability, or, at County's option, the County may offset such liability from any payment due to the Contractor under any contract or contract release purchase order with the County.

If, after notice of termination under the provisions of this clause, it is determined for any reason that the Contractor was not in default under this provisions of this clause, the County has the option to make its notice of termination pursuant to the Termination for Convenience clause and the rights and obligations of the parties would be in accordance with that provision.

In lieu of terminating immediately upon contractor's default, County may, at its option, provide written notice specifying the cause for termination and allow Contractor 10 days (or other specified time period by the County) to cure. If, within 10 days (or other specified time) after the County has given the Contractor such notice, Contractor has not cured to the satisfaction of the County, or if the default cannot be reasonably cured within that time period, County may terminate this Agreement at any time thereafter.

County shall determine whether Contractor's actions constitute complete or partial cure. In the event of partial cure, County may, at its option, decide whether to (a) give Contractor additional time to cure while retaining the right to immediately terminate at any point thereafter for cause; or (b) terminate immediately for cause.

19. TERMINATION FOR BANKRUPTCY

If Contractor is adjudged to be bankrupt or should have a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of Contractor's insolvency, the County may terminate this Agreement immediately without penalty. For the purpose of this Section, bankruptcy shall mean the filing of a voluntary or involuntary petition of bankruptcy or similar relief from creditors; insolvency; the appointment of a trustee or receiver, or any similar occurrence reasonably indicating an imminent inability to perform substantially all of the party's duties under this Agreement.

20. BUDGETARY CONTINGENCY

Performance and/or payment by the County pursuant to this Agreement is contingent upon the appropriation of sufficient funds by the County for services covered by this Agreement. If funding is reduced or deleted by the County for services covered by this Agreement, the County may, at its option and without penalty or liability, terminate this Agreement or offer an amendment to this Agreement indicating the reduced amount.

21. DISENTANGLEMENT

Contractor shall cooperate with County and County's other 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's efforts to ensure that there is no interruption of work required under the Agreement and no adverse impact on the supply of goods, provision of services or the County's activities. Contractor shall return to County all County assets or information in Contractor's possession.

For any software programs developed for use under the County's Agreement, Contractor shall provide a nonexclusive, nontransferable, fully-paid, perpetual, irrevocable, royalty-free worldwide license to the County, at no charge to County, to use, copy, and modify, all work or derivatives that would be needed in order to allow County to continue to perform for itself, or obtain from other providers, the services as the same might exist at the time of termination.

County shall be entitled to purchase at net book value those Contractor assets used for the provision of services to or for County, other than those assets expressly identified by the parties as not being subject to this provision. Contractor shall promptly remove from County's premises, or the site of the work being performed by Contractor for County, any Contractor assets that County, or its designee, chooses not to purchase under this provision.

Contractor shall deliver to County or its designee, at County's request, all documentation and data related to County, including, but not limited to, the County Data and client files, held by Contractor, within sixty (60) days of the request, and after return of same, Contractor shall destroy all copies thereof not turned over to County, all at no charge to County.

22. DISPUTES

Except as otherwise provided in this Agreement, any dispute arising under this contract that is not disposed of by agreement shall be decided by the Director of Procurement or designee, who shall furnish the decision to the Contractor in writing. The decision of the Director of Procurement or designee shall be final and conclusive. The Contractor shall proceed diligently with the performance of the contract pending the Director of Procurement's decision. The Director of Procurement or designee shall not be required to decide issues that are legal or beyond his or her scope of expertise,

23. ACCOUNTABILITY

Contractors will be the primary point of contact for the manufacturer, deliverer or any subcontractors and assume the responsibility of all matters relating to the purchase, including those involving the manufacturer and deliverer or any subcontractor, as well as payment issues. If issues arise, the Contractor must take immediate action to correct or resolve the issues.

24. NO ASSIGNMENT, DELEGATION OR SUBCONTRACTING WITHOUT PRIOR WRITTEN CONSENT

Contractor may not assign any of its rights, delegate any of its duties or subcontract any portion of its work or business under this Agreement or any contract release purchase order without the prior written consent of County. No assignment, delegation or subcontracting will release Contractor from any of its obligations or alter any of its obligations to be performed under the Agreement. Any attempted assignment, delegation or subcontracting in violation of this provision is voidable at the option of the County and constitutes material breach by Contractor.

As used in this provision, "assignment" and "delegation" means any sale, gift, pledge, hypothecation, encumbrance, or other transfer of all or any portion of the rights, obligations, or liabilities in or arising from this Agreement to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

25. MERGER AND ACQUISITION

The terms of this Agreement will survive an acquisition, merger, divestiture or other transfer of rights involving Contractor. In the event of an acquisition, merger, divestiture or other transfer of rights Contractor must ensure that the enquiring entity or the new entity is legally required to:

- A. Honor all the terms negotiated in this Agreement and any pre-acquisition or pre-merger Agreement between Contractor and the County, including but not limited to a) established pricing and fees; b) guaranteed product support until the contract term even if a new product is released; and c) no price escalation during the term of the contract.



- B. If applicable, provide the functionality of the software in a future, separate or renamed product, if the acquiring entity or the new entity reduces or replaces the functionality, or otherwise provide a substantially similar functionality of the current licensed product. The County will not be required to pay any additional license or maintenance fee.
- C. Give 30-days written notice to the County following the closing of an acquisition, merger, divestiture or other transfer of right involving Contractor.

26. COMPLIANCE WITH ALL LAWS & REGULATIONS

Contractor shall comply with all laws, codes, regulations, rules and orders (collectively, "Regulations") applicable to the goods and/or services to be provided hereunder. Contractor's violation of this provision shall be deemed a material default by Contractor, giving County a right to terminate the contract. Examples of such Regulations include but are not limited to California Occupational Safety and Health Act of 1973, Labor Code §6300 et. seq. the Fair Packaging and Labeling Act. and the standards and regulations issued there under. Contractor agrees to indemnify and hold harmless the County for any loss, damage, fine, penalty, or any expense whatsoever as a result of Contractor's failure to comply with the act and any standards or regulations issued there under.

27. FORCE MAJEURE

Neither party shall be liable for failure of performance, nor incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused by events, occurrences, or causes beyond the reasonable control and without negligence of the parties. Such events, occurrences, or causes will include Acts of God/Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, riots, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, lockout, blockage, embargo, labor dispute, strike, interruption or failure of electricity or telecommunication service.

Each party, as applicable, shall give the other party notice of its inability to perform and particulars in reasonable detail of the cause of the inability. Each party must use best efforts to remedy the situation and remove, as soon as practicable, the cause of its inability to perform or comply.

The party asserting *Force Majeure* as a cause for non-performance shall have the burden of proving that reasonable steps were taken to minimize delay or damages caused by foreseeable events, that all non-excused obligations were substantially fulfilled, and that the other party was timely notified of the likelihood or actual occurrence which would justify such an assertion, so that other prudent precautions could be contemplated.

The County shall reserve the right to terminate this Agreement and/or any applicable order or contract release purchase order upon non-performance by Contractor. The County shall reserve the right to extend the agreement and time for performance at its discretion.

28. CONFLICT OF INTEREST

Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services required under this Agreement.

29. INDEPENDENT CONTRACTOR

Contractor shall supply all goods and/or perform all services pursuant to this Agreement as an independent contractor and not as an officer, agent, servant, or employee of County. Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Nothing herein shall be considered as creating a partnership or joint venture between the County and Contractor. No person performing any services and/or supplying all goods shall be considered an officer, agent, servant, or employee of County, nor shall any such person be entitled to any benefits available or granted to employees of the County.

Contractor is responsible for payment to sub-contractors and must monitor, evaluate, and account for the sub-contractor(s) services and operations.

30. INSURANCE

Contractor shall maintain insurance coverage pursuant to the exhibit setting forth insurance requirements, if such exhibit is attached to the Agreement.

31. DAMAGE AND REPAIR BY CONTRACTOR

Any and all damages caused by Contractor's negligence or operations shall be repaired, replaced or reimbursed by Contractor at no charge to the County. Repairs and replacements shall be completed within 72 hours of the incident unless the County requests or agrees to an extension or another time frame. The clean up of all damage related to accidental or intentional release of any/all non-hazardous or hazardous material (e.g. hydraulic fluid, fuel, grease, etc.) from Contractor's vehicles or during performance shall be the responsibility of the Contractor. All materials must be cleaned up in a manner and time acceptable to County (completely and immediately to prevent potential as well as actual environmental damage). Contractor must immediately report each incident to the County's Director of Procurement or designee. Damage observed by Contractor, whether or not resulting from Contractor's operations or negligence shall be promptly reported by Contractor to County. County may, at its option, approve and/or dictate the actions that are in County's best interests.

32. LIENS, CLAIMS, AND ENCUMBRANCES AND TITLE

The Contractor represents and warrants that all the goods and materials ordered and delivered are free and clear of all liens, claims or encumbrances of any kind. Title to the material and supplies purchased shall pass directly from Contractor to County at the F.O.B. point, subject to the right of County to reject upon inspection.



33. INDEMNITY

County shall not be liable for, and Contractor shall defend, indemnify and hold harmless County and the employees and agents of County (collectively, "County Parties") against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including without limitation attorneys' fees and court costs (hereinafter collectively referred to as "Claims"), related to and arising either directly or indirectly from any act, error, omission or negligence of Contractor or its contractors, licensees, agents, servants or employees, excepting only Claims caused by the sole negligence or willfulness of County Parties. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor is obligated to indemnify, defend and hold harmless the County under its agreement with the County.

34. INTELLECTUAL PROPERTY INDEMNITY

Contractor represents and warrants for the benefit of the County and its users that it is the exclusive owner of all rights, title and interest in the product or services to be supplied. Contractor shall, at its own expense, indemnify, defend, settle, and hold harmless the County and its agencies against any claim or potential claim that any good, (including software) and/or service, or County's use of any good (including software) and/or service, provided under this Agreement infringes any patent, trademark, copyright or other proprietary rights, including trade secret rights. Contractor shall pay all costs, damages and attorneys' fees that a court awards as a result of any such claim.

35. WARRANTY

Any goods and/or services furnished under this Agreement shall be covered by the most favorable commercial warranties that Contractor gives to any of its customers for the same or substantially similar goods and/or services. Any warranties so provided shall supplement, and shall not limit or reduce, any rights afforded to County by any clause in this Agreement, any applicable Uniform Commercial Code warranties, including, without limitation, Implied Warranty of Merchantability and Implied Warranty of Fitness for a Particular Purpose as well as any other express warranty.

Contractor expressly warrants that all goods supplied shall be new, suitable for the use intended, of the grade and quality specified, free from all defects in design, material and workmanship, in conformance with all samples, drawings, descriptions and specifications furnished by the County, in compliance with all applicable federal, state and local laws and regulations and free of liens, claims and encumbrances. Contractor warrants that all services shall strictly conform to the County's requirements.

Contractor shall immediately replace or repair any good not conforming to any warranty, or provide services to conform to County's requirements. If after notice, Contractor fails to repair or replace goods, or to provide services to conform to County's requirements, Contractor shall promptly refund to County the full purchase price paid by the County. This remedy is non-exclusive of other remedies and rights that may be exercised by the County. Claims for damages may include direct damages, such as cost to repair, as well as incidental and consequential damages.



During the provision of goods and services, Contractor may not disclaim any warranty, express or implied, and any such disclaimer shall be void. Additionally, the warranties above shall not be deemed to exclude Contractor's standard warranties or other rights and warranties that the County may have or obtain.

36. COOPERATION WITH REVIEW

Contractor shall cooperate with County's periodic review of Contractor's performance. Contractor shall make itself available onsite to review the progress of the project and Agreement, as requested by the County, upon reasonable advanced notice.

Contractor agrees to extend to the County or his/her designees and/or designated auditor of the County, the right to monitor or otherwise evaluate all work performed and all records, including service records and procedures to assure that the project is achieving its purpose, that all applicable County, State, and Federal regulations are met, and that adequate internal fiscal controls are maintained.

37. AUDIT RIGHTS

Pursuant to California Government Code Section 8546.7, the parties acknowledge and agree that every contract involving the expenditure of public funds in excess of \$10,000 may be subject to audit by the State Auditor.

All payments made under this Agreement shall be subject to an audit at County's option, and shall be adjusted in accordance with said audit. Adjustments that are found necessary as a result of auditing may be made from current billings.

The Contractor shall be responsible for receiving, replying to, and complying with any audit exceptions set forth in any County audits. The Contractor shall pay to County the full amount of any audit determined to be due as a result of County audit exceptions. This provision is in addition to other inspection and access rights specified in this Agreement.

38. ACCESS AND RETENTION OF RECORDS AND PROVISION OF REPORTS

Contractor shall maintain financial records adequate to show that County funds paid were used for purposes consistent with the terms of the contract between Contractor and County. Records shall be maintained during the terms of the Agreement and for a period of four (4) years from its termination, or until all claims have been resolved, whichever period is longer, unless a longer period is required under any contract.

All books, records, reports, and accounts maintained pursuant to the Agreement, or related to the Contractor's activities under the Agreement, shall be open to inspection, examination, and audit by County, federal and state regulatory agencies, and to parties whose Agreements with the County require such access. County shall have the right to obtain copies of any and all of the books and records maintained pursuant to the Agreement, upon the payment of reasonable charges for the copying of such records.

Contractor shall provide annual reports that include, at a minimum, (i) the total contract release purchase order value for the County as a whole and individual County departments, and (ii) the number of orders placed, the breakdown (by customer ID/department and County) of the quantity and dollar amount of each product and/or

service ordered per year. Annual reports must be made available no later than 30 days of the contract anniversary date unless otherwise requested.

Contractor shall also provide quarterly reports to the County that show a breakdown by contract release purchase order (i) the order date (ii) ship date (iii) estimated arrival date (iv) actual arrival date (v) list of products, services and maintenance items and (vi) the number and details of problem/service calls and department name that each such call pertains to (including unresolved problems). Quarterly reports must be made available to the County in electronic format, two (2) business days after the end of each quarter unless otherwise requested.

39. ACCESS TO BOOKS AND RECORDS PURSUANT TO THE SOCIAL SECURITY ACT

Access to Books and Records: If and to the extent that, Section 1861 (v) (1) (1) of the Social Security Act (42 U.S.C. Section 1395x (v) (1) (1) is applicable, Contractor shall maintain such records and provide such information to


County, to any payor which contracts with County and to applicable state and federal regulatory agencies, and shall permit such entities and agencies, at all reasonable times upon request, to access books, records and other papers relating to the Agreement hereunder, as may be required by applicable federal, state and local laws, regulations and ordinances. Contractor agrees to retain such books, records and information for a period of at least four (4) years from and after the termination of this Agreement. Furthermore, if Contractor carries out any of its duties hereunder, with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, through a subcontract with a related organization, such subcontract shall contain these same requirements. This provision shall survive the termination of this Agreement regardless of the cause giving rise to the termination.

40. COUNTY NO-SMOKING POLICY

Contractor and its employees, agents and subcontractors, shall comply with the County's No-Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within 30 feet surrounding County-owned buildings and leased buildings where the County is the sole occupant, and (3) in all County vehicles.

41. BEVERAGE NUTRITIONAL CRITERIA

If Contractor provides beverages through or for County departments, County programs, County-sponsored meetings or events, or at County owned/operated facilities, Contractor shall not use County funds to purchase beverages that do not meet the County's nutritional beverage criteria, if applicable. The six categories of nutritional beverages that meet these criteria are (1) water with no additives; (2) 100% fruit juices with no added sugars, artificial flavors or colors (limited to a maximum of 10 ounces per container); (3) dairy milk, non-fat, 1% and 2% only, no flavored milks; (4) plant derived (i.e., rice, almond, soy, etc.) milks (no flavored milks); (5) artificially-sweetened, calorie-reduced beverages that do not exceed 50 calories per 12-ounce container (teas, electrolyte replacements); and (6) other non-caloric beverages, such as coffee, tea, and



diet sodas. These criteria may be waived in the event of an emergency or in light of medical necessity.

42. NON-DISCRIMINATION


Contractor shall comply with all applicable Federal, State, and local laws and regulations, including Santa Clara County's policies, concerning nondiscrimination and equal opportunity in contracting. Such laws include, but are not limited to, the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (§§ 503 and 504); California Fair Employment and Housing Act (Government Code §§ 12900 et seq.); and California Labor Code §§ 1101 and 1102. Contractor shall not discriminate against any employee, subcontractor or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor shall Contractor discriminate in provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status. Contractor's violation of this provision shall be deemed a material default by Contractor giving County a right to terminate the contract for cause.

43 DEBARMENT

Contractor represents and warrants that it, its employees, contractors, subcontractors or agents (collectively "Contractor") are not suspended, debarred, excluded, or ineligible for participation in Medicare, Medi-Cal or any other federal or state funded health care program, if applicable, or from receiving Federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration. Contractor must within 30 calendar days advise the County if, during the term of this Agreement, Contractor becomes suspended, debarred, excluded or ineligible for participation in Medicare, Medi-Cal or any other federal or state funded health care program, as defined by 42. U.S.C. 1320a-7b(f), or from receiving Federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration. Contractor will indemnify, defend and hold the County harmless for any loss or damage resulting from the conviction, debarment, exclusion or ineligibility of the Contractor.

44. CALIFORNIA PUBLIC RECORDS ACT

The County is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If Contractor's proprietary information is contained in documents or information submitted to County, and Contractor claims that such information falls within one or more CPRA exemptions, Contractor must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, the County will make best efforts to provide notice to Contractor prior to such disclosure. If Contractor contends that any documents are exempt from the CPRA and wishes to prevent



disclosure, it is required to obtain a protective order, injunctive relief or other appropriate remedy from a court of law in Santa Clara County before the County's deadline for responding to the CPRA request. If Contractor fails to obtain such remedy within County's deadline for responding to the CPRA request, County may disclose the requested information.

Contractor further agrees that it shall defend, indemnify and hold County harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees, and attorneys fees) that may result from denial by County of a CPRA request for information arising from any representation, or any action (or inaction), by the Contractor.

45 SEVERABILITY

Should any part of the Agreement between County and the Contractor or any individual contract release purchase order be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the validity of the remainder of the Agreement or any individual contract release purchase order which shall continue in full force and effect, provided that such remainder can, absent the excised portion, be reasonably interpreted to give the effect to the intentions of the parties.

46. NON-WAIVER

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement will be effective unless it is in writing and signed by County. No waiver of any breach, failure, right, or remedy will be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor will any waiver constitute a continuing waiver unless the writing signed by the County so specifies.

47. USE OF COUNTY'S NAME FOR COMMERCIAL PURPOSES

Contractor may not use the name of the County or reference any endorsement from the County in any fashion for any purpose, without the prior express written consent of the County as provided by the Director of Procurement or designee.

48. HEADINGS AND TITLES

The titles and headings in this Agreement are included principally for convenience and do not by themselves affect the construction or interpretation of any provision in this Agreement, nor affect any of the rights or obligations of the parties to this Agreement.

49. HANDWRITTEN OR TYPED WORDS

Handwritten or typed words have no greater weight than printed words in the interpretation or construction of this Agreement.



50. AMBIGUITIES

Any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

51. ENTIRE AGREEMENT

This Agreement and its Exhibits constitute the final, complete and exclusive statement of the terms of the agreement between the parties. It incorporates and supersedes all the agreements, covenants and understandings between the parties concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this Agreement. No prior or contemporaneous agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

52. EXECUTION & COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument. The parties agree that this Agreement, its amendments, and ancillary agreements to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by facsimile transmission. Such facsimile signature must be treated in all respects as having the same effect as an original signature. The original signature copy must be sent to the County by United States Postal Service mail, sent by courier or delivered by hand.

53. NOTICES

All deliveries, notices, requests, demands or other communications provided for or required by this Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail, return receipt requested; when sent by overnight carrier; or upon email confirmation to sender of receipt of a facsimile communication which is followed by a mailed hard copy from sender. Notices shall be addressed to the individuals identified in the Key Provisions of the Agreement as the County Contract Administrator and the Supplier Contact. Each party may designate a different person and address by sending written notice to the other party, to be effective no sooner than ten (10) days after the date of the notice.

54. ACCOUNT MANAGER

Contractor must assign an Account Manager to the County upon execution of the Agreement to facilitate the contractual relationship, be fully responsible and accountable for fulfilling the County's requirements. Contractor represents and warrants that such person will ensure that the County receives adequate pre- and post-sales support, problem resolution assistance and required information on a timely basis.

55. SURVIVAL

All representations, warranties, and covenants contained in this Agreement, or in any instrument, certificate, exhibit, or other writing intended by the parties to be a part of their Agreement, will survive the termination of this Agreement.

56. GOVERNING LAW, JURISDICTION AND VENUE

This Agreement shall be construed and interpreted according to the laws of the State of California, excluding its conflict of law principles. Proper venue for legal actions shall be exclusively vested in state court in the County of Santa Clara. The parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara, and waive all venue objections.

57. AUTHORITY

Each party executing the Agreement on behalf of such entity represents that he or she is duly authorized to execute and deliver this Agreement on the entity's behalf, including the entity's Board of Directors or Executive Director. This Agreement shall not be effective or binding unless approved in writing by the County Director of Procurement, or authorized designee, as evidenced by their signature as set forth in this Agreement.

58. SOFTWARE LICENSE

Contractor hereby grants the County an unlimited perpetual license to use the software.

County is granted the right to copy the software for archival, backup, or training purposes. All archival and backup copies of the software are subject to the provisions of this Agreement, and all titles, patent numbers, trademarks, and copyright and restricted rights notices shall be reproduced in such copies;

59. OWNERSHIP OF SOFTWARE

All materials and custom application software developed for the County under this Agreement and all customization of the licensed software (including the source code to the customization) shall become the property of the County and shall be delivered to the County no later than the termination date of this Agreement. No materials developed for the County or customization of software produced, in whole or in part, by the Contractor in performance of the Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

60. SOFTWARE SOURCE CODE

Software in Escrow: If applicable, Contractor agrees to maintain a copy of the software source code, including all updates and upgrades, with an escrow agent and to list County as an authorized recipient of this source code in the event that Contractor ceases to do business or breaches its contract. The source code shall be in magnetic form or on any media specified by County. The escrow agent shall be responsible for storage and safekeeping of the tape. Contractor shall replace the magnetic tapes as updates, enhancements and new versions are released, but at minimum once per year, to ensure readability and preserve the software at the current revision level. Included within these tapes shall be all associated documentation to allow County to load, compile and maintain the software.

Access to Source Code: If the Contractor ceases to do business (whether by bankruptcy, insolvency, merger, sale, assignment of assets or any other reason) or

ceases support of this project, and does not make adequate provision of continued support of the licensed software provided by the Contractor, or if this Agreement is terminated by County for cause or convenience, or if Contractor breaches this Agreement, the Contractor shall make available to the Contractor shall make available to County the latest available the most recent licensed version of all software that is relevant to functionality, setup, configuration, and operation of the software, including, but not limited to, a complete copy of the source and executable code, build scripts, object libraries, application program interfaces, and complete documentation of all aspects of the system including, but not limited to, compiling instructions, design documentation, technical documentation, user documentation, hardware and software specifications, drawings, records, and data., as well as the source code and compiler/utilities necessary to maintain the system and related documentation for software developed by third parties. In such circumstances, County shall have the right to unlimited internal use of source code and documentation, and the right to copy, modify, and use said source code and related material.

County shall have the option to purchase the source code license at any time at the prevailing rate as of the time of purchase.

61. SERVICE LEVEL AGREEMENT

If applicable, Contractor warrants that the service provided pursuant to this Agreement shall be available 100% of the time. Unavailability does not mean an inability to connect to the service due to a failure between the Customer's computer and the Internet. System availability and response time shall be accurately, truthfully and precisely monitored by Contractor on a 24X7X365 basis. Contractor shall certify as to monitoring practice and procedures under penalty of perjury. Contractor shall provide a system availability and response time report at any time upon request by County.

In the event that County experiences less than 99.5% availability in one month, County shall receive service credit of one month.

This Agreement may be terminated for cause and without penalty if Santa Clara County experiences, for 3 months in any 12 month period, less than 99.5% availability, or experiences any period of total unavailability that has not been cured within 3 hours to the satisfaction of the County.

62. STATEMENT OF WORK

A Statement of Work (SOW) is required for all project management, implementation work, and final acceptance test. The SOW shall include all phases, tasks to be performed, the roles and responsibilities of the two parties, deliverables, timelines, completion criteria of each task, and final acceptance criteria. Each task shall include, but not be limited to, site preparation, implementation, installation, training, final acceptance testing and on-going services and support. Exhibit B is the Statement of Work for this Agreement.

The SOW may be revised only by mutual written consent of both parties, which consent shall not be unreasonably withheld. The parties shall undertake best efforts to perform



the tasks described in the SOW by the time periods referenced therein. Any changes to the SOW will be done by means of a Change Notice.

Contractor and County shall report to each other at meetings, either in person or by telephone conference, held at regular intervals specified by the County, as to the progress being made by each of them in respect to the SOW, any delays being encountered and the action being taken to recover from such delays.

63. CONFIDENTIALITY

Any information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of County, except as may otherwise be required by law.

64. CONFIDENTIALITY OF DATA

All financial and confidential data transmitted over the Internet shall be encrypted using a minimum of 1024-bit Secure Socket Layer (SSL) encryption. Furthermore, the system shall be SSL security, using a public certification authority to ensure connectivity.

Information from County shall not be shared, sold, traded, or otherwise released to any third party, other than as required to complete transactions (i.e., third party payment process).

Contractor assures that County or County customer data is never at risk.

65. OWNERSHIP, ACCESS, SAFEGUARD AND RECOVERY OF COUNTY DATA

Ownership of County Data: As between Contractor and County, all County data shall remain the property of the County. Contractor shall not, without County's written permission consent, use or disclose County data other than in the performance of its obligations under this Agreement.

Access to County Data: County may have access to County data and use of the System and software as set forth in this Agreement, 24x7x365.

Safeguarding County Data: During the term of this Agreement and any mutually agreed upon extensions thereof, Contractor shall use software or devices which (i) require Authorized User' end users to enter user identification codes and passwords prior to gaining access to the System, (ii) track the addition and deletion of Authorized User end users, and (iii) control access by any end user to areas and features of the System as designated by Authorized User Super User or administrator, if applicable.

Recovery of County Data: If any County data is lost or damaged due to the acts or omissions of Contractor while resident in the System, Contractor shall use commercially reasonable efforts to assist in replacing or regenerating such data. In addition, within ten (10) business days of termination of contract, and upon request by the County, Contractor shall return all County data to the County in the format agreed upon by both parties.



**COUNTY OF SANTA CLARA AGREEMENT
EXHIBIT A – PRICING SUMMARY**

County contact: Bruce Overoye, at Office of the Sheriff, at 408-808-4610 or bruce.overoye@sho.co.scl.ca.us

Contractor contact: Thomas Calabro, at 916-987-3660 or (mobile) 916-599-3699 or tcalabro@cdi-hq.com

PRODUCT CODE	DESCRIPTION	TERM	ANNUAL FEE
CTMC	Software Maintenance and support	1 year	\$11,550.00

**COUNTY OF SANTA CLARA AGREEMENT
EXHIBIT B – VENDOR REMOTE ACCESS AND USER RESPONSIBILITY**

1. Scope of Access

a. Remote access is the act of connecting to County of Santa Clara ("County") systems from a non-County system through a public network or non-County network infrastructure. Systems include personal computers, workstations, servers and/or any device with network capabilities (e.g., a workstation with an attached modem, routers, switches, laptop computers, handheld devices). County hereby grants remote access to the following County systems at the locations listed, collectively referred to as "IS," in accordance with the terms of the Agreement:

County Systems: **CTMC Livescan S&F Cluster and DELL DRAC Console**

All other access is prohibited.

b. Access is granted for the purpose of Contractor providing services and performing its obligations as set forth in the Agreement including, but not limited to, supporting Contractor-installed programs. Any access to IS and/or County data information that is not specifically authorized under the terms of this Agreement is prohibited and may result in contract termination and any penalty allowed by law.

c. Modifications to Access Right: County will review the scope of Contractor's access rights periodically. In no instance will Contractor's access rights be reduced, limited or modified in any way that prevents or delays Contractor from performing its obligations set forth in the Agreement. Any modifications to these access rights must be mutually agreed to in writing by County and Contractor.

2. Security Requirements

a. Contractor will not install any remote access capabilities on any County owned or managed system or network unless such installation and configuration is approved in writing by County's and Contractor's respective designees.

b. Contractor may only install and configure remote access capabilities on County systems in accordance with industry standard protocols and procedures, which must be reviewed and approved by County's designee.

c. Contractor will only remotely access County systems, including those connections initiated from a County system, if the following conditions are met:

1. Contractor will submit documentation verifying its network security mechanisms to County for County's review and approval. The County requires advanced written approval of Contractor's security mechanisms prior to Contractor being granted remote access.

2. Contractor security systems must include the following minimum control mechanisms:

- a. Two Factor Authentication: an authentication method that requires two of the following three factors to confirm the identity of the user attempting remote access. Those factors include: 1) something you possess (e.g., security token and/or smart card); 2) something you know (e.g., a personal identification number (PIN)); or 3) something you are (e.g., fingerprints, retina scan). The only exceptions are County approved County site to Contractor site Virtual Private Network (VPN) infrastructure.
- b. Centrally controlled authorizations (permissions) that are user specific (e.g., access lists that limit access to specific systems or LANs).
- c. Audit tools that create detailed records/logs of access attempts.
- d. All systems used to remotely access County systems must have installed and activated industry-standard anti-virus and other security measures that might be required by the County (e.g., software firewall).
- e. Access must be established through a centralized collection of hardware and software centrally managed and controlled by County's and Contractor's respective designees.

3. Monitoring/Audit

County will monitor access to and activities on County owned or managed systems and networks. All remote access attempts to County networks and/or systems will be logged on a County managed and monitored system with the date, time, and user identification.

4. Copying Deleting or Modifying Data

Contractor is prohibited from copying, modifying, or deleting any data contained in or on any IS unless otherwise stated in the Agreement or unless Contractor receives prior written approval from County. This does not include data installed by the Contractor to fulfill its obligations set forth in the Agreement.

5. Connections to Non-County Networks and/or Systems

Contractor agrees to make every effort to protect County's data contained on County owned and/or managed systems and networks within Contractor's control from unauthorized access. Prior written approval is required before Contractor may connect County networks or systems to non-County owned and/or managed networks or systems. Such connections will be made in accordance with industry standard protocols and procedures as mutually agreed upon and will be timely approved in writing by County. All modem access and other forms of remote access, including, but not limited to, VPN access, will be made in accordance with mutually agreed upon industry standard protocols and procedures, which must be approved in writing by the County.

6. Person Authorized to Act on Behalf of Parties: The following persons are the designees for purposes of this Agreement:

Contractor: Title/ Designee Support Mgr / Mr. Mark Morrison

County: Title/ Designee _____

Either party may change the aforementioned names and or designees by providing the other party with no less than three (3) business days prior written notice.

7. REMOTE ACCESS BACK-UP MODEL:

This Remote Access Back-Up Model will only be used in the event that the primary model selected below is inoperable. Contractor will abide by the additional provisions relating to the back up model selected below in the event Contractor utilizes the back up model.

8. ACCESS MODELS: Contractor agrees to abide by the following additional provisions relating to the primary model selected as indicated below. Please mark appropriate box for each model or if a model is inapplicable, please check the box marked N/A.

A. VPN - Site-to-Site **Primary** **Backup** **N/A**

Contractor support staff will have 24x7 access to all Contractor supported software, devices and systems (including applicable third party software products).

In addition to the above terms, the Contractor agrees to the following:

1. Only staff providing services or fulfilling Contractor obligations under the Agreement will be given remote access rights.
2. Only Contractor supported software, devices and systems (including applicable third party software products) will be accessed.
3. An encryption method reviewed and approved by the County will be used. County is solely responsible and liable for any delay or failure of County, as applicable, to approve the encryption method to be used by Contractor where such delay or failure causes Contractor to fail to meet or perform, or be delayed in meeting or performing, any of its obligations under the Agreement.
4. Contractor will be required to log all access activity to the County. These logs will be kept for a minimum of 90 days and be made available to County no more frequently than once every 90 days.
5. Any access to IS and/or County data information that is not specifically authorized under the terms of this Agreement is prohibited and may result in contract termination and any other penalty allowed by law.

Contractor will promptly report to Customer all system changes made via remote access.

B. Manually Switched Dialup Modem **Primary** **Backup**
 N/A

In addition to the terms set forth elsewhere in this Agreement, the Contractor agrees to the following:

1. Contractor will use reasonable efforts to notify the County's Technical Services Manager or his/her designee in the following instances: at least

½ hour prior to access to allow County to activate the modem connection and give estimated time connection will be required and when the access can be deactivated.

2. County acknowledges that Contractor may not be able to provide certain of its services (including, but not limited to, implementation services, maintenance and support (including Standard Support Services) and training services) using this Remote Access Back-Up Model.
3. County is solely responsible and liable for any inability or delay in Contractor performing its obligations under the Agreement where such inability or delay is caused by the use of this Remote Access Back-Up Model.
4. Any access to IS and/or County data information that is not specifically authorized under the terms of this Agreement is prohibited and may result in contract termination and any other penalty allowed by law.

C. Client Based VPN/SSLVPN CRYPTOCARD Authentication

Primary Backup N/A

This equipment, known as the CRYPTOCARD, is a product used to establish authentication of the Contractor when accessing the Customer's facility through County provided VPN and/or SSLVPN capabilities.

Because the CRYPTOCARD allows access to privileged or confidential information residing on the County's IS, the Contractor agrees to treat the CRYPTOCARD as it would a signature authorizing a financial commitment of a Contractor every time the CRYPTOCARD is used.

In addition to the above terms, the Contractor agrees to the following:

1. The CRYPTOCARD is a County-owned device, and will be labeled as such. The label must remain attached at all times.
2. The CRYPTOCARD must be kept in a secured environment under the direct control of the Contractor, such as a locked office where public or other unauthorized access is not allowed.
3. If the remote access equipment is moved to a non-secured site such as a repair location, the CRYPTOCARD will be kept under Contractor control.
4. The CRYPTOCARD is issued to an individual employee of the Contractor and may only be used by the designated individual.
5. If the CRYPTOCARD is misplaced, stolen, or damaged, the Contractor will notify County by phone within one (1) business day. The County contact is the County's [TITLE] or his/her designee.

6. Contractor uses the CRYPTOCARD as part their normal business operations and for legitimate business purposes only. Any access to IS and/or County data information that is not specifically authorized under the terms of this Agreement is prohibited and may result in contract termination and any other penalty allowed by law.

7. The CRYPTOCARD will be issued to Contractor following execution of this Agreement. The CRYPTOCARD will be returned to the County's [TITLE] or his/her designee within five (5) business days following contract termination, or upon written request of the County for any reason. Contractor will notify County's [TITLE] or his/her designee within one working day of any change in personnel affecting use and possession of the CRYPTOCARD. Contractor will obtain the CryptoCard from any employee who no longer has a legitimate need to possess the CRYPTOCARD. Lost or non-returned CRYPTOCARDS will be billed to the Contractor in the amount of \$300 per card.

8. Contractor will not store password documentation with CRYPTOCARDS.

9. Contractor agrees that all employees, agents, contractors, and subcontractors who are issued the CRYPTOCARD will be made aware of the responsibilities set forth in this Agreement in written form. Each person having possession of a CRYPTOCARD will execute this Agreement where indicated below certifying that they have read and understood the terms of this Agreement.

Signatures of employees receiving CRYPTOCARDS:

CONTRACTOR: *Thomas J. Calabro*
Vice President

[TITLE]

Thomas Calabro

[TYPE NAME HERE]
Date: _____

CONTRACTOR: _____

[TITLE]

[TYPE NAME HERE]
Date: _____

CONTRACTOR: _____

[TITLE]

[TYPE NAME HERE]
Date: _____

CONTRACTOR: _____

[TITLE]

[TYPE NAME HERE]
Date: _____

P

CONTRACTOR: _____

[TYPE NAME HERE]

Date: _____

[TITLE]

**D. Client based VPN and SSLVPN County System Administrator
Authentication Primary Backup N/A**

A PIN number will be provided to the Contractor to use as identification for remote access. The County's [TITLE] or his/her designee will verify the PIN number provided by the Contractor. After verification the County's [TITLE] or his/her designee will give the Contractor a one-time password which will be used to authenticate Contractor when accessing the County's IS. All system changes will be subject to prior approval by County's [TITLE] or his/her designee. All remote access will be initiated only after a support case has been opened either by County or Contractor.

Because the PIN number allows access to privileged or confidential information residing on the County's IS, the Contractor agrees to treat the PIN number as it would a signature authorizing a financial commitment of a Contractor executive every time the PIN number is used.

In addition to the above terms, Contractor agrees to the following:

1. The PIN number is confidential, County-owned, and will be identified as such.
2. The PIN number must be kept in a secured environment under the direct control of the Contractor, such as a locked office where public or other unauthorized access is not allowed.
3. If the remote access equipment is moved to a non-secured site such as a repair location, the PIN number will be kept under Contractor control.
4. The PIN number can only be released to an authorized employee of the Contractor and may only be used by the designated individual.
5. If the PIN number is compromised or misused, the Contractor will notify the County's [TITLE] or his/her designee within one (1) business day.
6. Contractors use the PIN number as part their normal business operations and for legitimate business purposes only. Any access to IS and/or County data information that is not specifically authorized under the terms of this Agreement is prohibited and may result in contract termination and any other penalty allowed by law.
7. The PIN number will be issued to Contractor following execution of this Agreement.

8. The PIN number will be inactivated by the County's [TITLE] or his/her designee within five (5) business days following contract termination, or upon written request of the County for any reason.

A small, handwritten mark or signature located in the bottom right corner of the page.

**INFORMATION TECHNOLOGY
USER RESPONSIBILITY STATEMENT AND INSTRUCTIONS**

In May 1995 the Board of Supervisors charged each County organization with the responsibility for ensuring that all individuals within the organization had read and signed a statement of responsibility concerning use of the County's networks and information systems. This Statement is intended as a minimum Statement of User Responsibility, and individual County Agencies and Departments may make additions to strengthen it as necessary to meet any special requirements within their own environments.

- The User Responsibility Statement must be signed by everyone who might reasonably require access to a County network and/or information system, which includes County employees, consultants, contractors, sub-contractors, vendors, volunteers and any other authorized individual who is permitted access. All Users who are allowed to access County resources remotely must also sign an additional attachment specifically related to remote access; this is provided as Attachment C.
- Each County organization should identify a "User Responsibility Statement Administrator." This is an occasional personnel function that should NOT be filled by a member of the organization's Information System's support staff. A good choice would be a personnel administrator or office staff responsible for other routine personnel issues. The User Responsibility Statement Administrator is responsible for the following tasks:
 1. Identifying those employees, contractors and others within the organization that will need to read and sign the Statement.
 2. Managing the signing process, including arranging for any briefings that are held in conjunction with users signing the Statement.
 3. Maintaining the signed Statements.
 4. Documenting in the Agency / Departmental IT Security Plan that the Statements have been signed by all appropriate employees, contractors, and others.
 5. Ensuring that new employees, contractors, etc. read and sign the Statement.
- County organizations must identify all individuals who need to sign the Statement. For most organizations, the easiest approach would be to have everyone read and sign a Statement, but in some unusual cases it might make sense to exclude specific workgroups who clearly will never have the need to access a County computer or network.



- Following identification of the appropriate User communities, the Statements should be distributed for reading and signing. One possible method for accomplishing this is an all-staff briefing session, during which staff, contractors, etc. are presented with an overview of the Statement and then asked to sign it.
- It should be noted that individuals who sign the Statement are not required to agree with all of the Statement's provisions but that by signing they are acknowledging that they have read the Statement and understood its contents. The signer also acknowledges that violation of any of the Statement's provisions may result in disciplinary action and/or criminal prosecution.
- In rare situations where an individual refuses to sign the Statement the responsible Agency / Department may choose to read the Statement to the involved individual who will be required to verbally acknowledge understanding with two or more responsible managers present who will attest in writing that the reading and verbal attestation of understanding occurred. Failing a verbal acknowledgement of understanding the involved individual shall be denied access to all County information systems and networks.
- Each County organization is responsible for storing and maintaining all of the signed Statements. It is required that all County organizations have their users re-execute the Statement whenever there is an update or other change to the Statement. The Department Heads will be notified by the CIO's office of any updates or other changes to the Statement. It is recommended that all County organizations have their users re-execute the Statement annually. Also, all users that have remote access capabilities into the County must read and sign Attachment C of the Statement.



INFORMATION TECHNOLOGY USER RESPONSIBILITY STATEMENT

This User Responsibility Statement establishes a uniform, County-wide set of minimum responsibilities associated with being granted access to County information systems and/or County networks.

Definitions

County information systems and networks include all County-owned, rented, or leased desktop computers, laptop computers, handheld devices (including smart phones, wireless PDA's and Pocket PC's), equipment, networks, application systems, data bases and software; these items are typically under the direct control and management of County information system staff. Also included are information systems and networks under control and management of a service provider for use by the County.

Users includes full-time and part-time employees who are on the permanent County payroll, as well as other authorized individuals such as contractors, sub-contractors, consultants, temporary personnel, unpaid volunteers and any other authorized individual permitted access to County information systems and/or networks.

County-owned information/data is any information or data that is transported across a County network, or that resides in a County-owned information system, or on a network or system under control and management of a service provider for use by the County. This information/data is the exclusive property of the County of Santa Clara, unless excepted through constitutional provision, State or Federal statute, case law, or contract.

A public record is any writing, including electronic documents, relating to the conduct of the people's business.

1. General Code of Responsibility

The following General Code of Responsibility defines the basic standards for user interaction with County information systems and networks. All Users of County information systems and networks are required to comply with these standards.

- 1.1 Users are personally responsible for knowing and understanding the appropriate standards for User conduct, and are personally responsible for any actions they take that do not comply with County policies and standards.

- 1.2 Users must comply with County standards for password definition, use, and management. If a User is unclear as to the appropriate standards, it is the responsibility of the User to ask for guidance from their information systems support staff or Agency / Department management.
- 1.3 Users may not install, configure, or use any modem, any connection to a non-County network or system, or any wireless device, on any County system or network unless authorized to do so in writing by their designated departmental information systems support staff. If authorized to install, configure or use such a device or capability, Users must comply with all additional, applicable County standards designed to ensure the privacy and protection of data.
- 1.4 All connections between County information systems/networks and non-County systems/networks, including the Internet, must be approved by the County Chief Information Officer (CIO), or designee, and by the head of the involved Agency/Department. Users, including members of the County's information system support staff, are prohibited from implementing such connections without obtaining this approval in writing.
- 1.5 No personally owned desktop computer, laptop computer, handheld and/or wireless device, or any other device may be attached to a County network unless such attachment is authorized in writing by designated departmental information systems support staff.
- 1.6 Users must not attempt to circumvent legal guidelines on software use and licensing by copying software. If a User is unclear as to whether a piece of software may be legitimately copied, it is the responsibility of the User to check with designated departmental information systems support staff.
- 1.7 Users may not install software on any County system unless specifically authorized to do so in writing by designated departmental information systems support staff.
- 1.8 Users are asked to be aware of security issues, and are encouraged to report incidents of security breaches (e.g., installation of an unauthorized device) to designated information systems support staff.
- 1.9 Users must understand and respect the sensitivity, privacy and confidentiality aspects of all County-owned information. In particular:
 - Users must not attempt to access County systems or information unless authorized to do so, and there is a legitimate business need for such access.
 - Users must not disclose information to anyone who does not have a legitimate need for that information.

- Users must not make or store printed or media-based (e.g., CD or floppy disk) copies of information unless it is a necessary part of that user's job.
- 1.10 Users must understand and respect the importance of County-owned data as a valuable asset. In particular:
- Users must not change or delete data or information unless performing such changes or deletions is a legitimate part of the user's job function.
 - Users must avoid actions that might introduce malicious software, such as viruses or worms, onto any County system or network.
- 1.11 Users should be aware that electronic information transported across any County network, or residing in any County information system, is potentially subject to access by technical support staff, other County Users, and the general public. There are within the County IT environment systems and networks that have been made secure and private but in the absence of such special measures Users should not presume any level of data privacy for information transmitted over a County network, or stored within a County information system.
- 1.12 In general, Users must not use County systems or networks for personal activities that cannot be shown to either facilitate work tasks or increase job productivity. However, reasonable incidental (de minimus) personal use of County IT resources, such as Internet access and email, is allowed as long as such use does not interfere with the performance of work duties or the operation of the County's information systems. If a User is unclear as to appropriate personal uses, it is the responsibility of the User to ask for guidance from their Agency / Department management.
- 1.13 All information resources on any County information system or network are the property of the County and are therefore subject to County policies regarding acceptable use. No employee or other authorized User may use any County owned network, computer system, handheld and/or wireless device, cell phone or any other device or data for the following purposes:
- Personal profit, including commercial solicitation or conducting or pursuing their own business interested or those of another organization.
 - Unlawful or illegal activities, including the downloading of licensed material without authorization, or downloading copyrighted material from the Internet without the publisher's permission.
 - To access, create, transmit, print, download or solicit material that is or may be construed to be harassing or demeaning toward any individual or group for any reason, including on the basis of sex,



age, race, color, national origin, creed, disability, political beliefs, organizational affiliation, or sexual orientation.

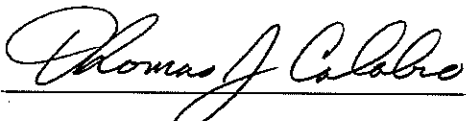
- To access, create, transmit, print, download or solicit sexually-oriented messages or images.
 - The knowing propagation or downloading of viruses or other contaminants.
 - The dissemination of hoaxes, chain letters, or advertisements.
- 1.14 Users that are employed by, or otherwise belong to, a HIPAA impacted Agency / Department are responsible for understanding and carrying out their responsibilities and duties as identified in the County HIPAA policies and procedures training.
- 1.15 Users should refer to the County's email retention policy for guidance with respect to the retention of email messages.
- 1.16 Users may not configure, access, use, or participate in those Internet services that have been prohibited by County policy, including but not limited to Internet Instant Messaging services (such as AOL Instant Messaging), Internet email services (such as hotmail), and peer-to-peer networking services (such as Kazaa), unless specifically authorized to do so in writing. All use of such services, even at a Departmental level, is subject to written approval and authorization procedures by the Department Head and the County CIO.
- 1.17 Users shall not use an internal County email account assigned to another individual to either send or receive emails.
- 1.18 Users shall not configure their email account to automatically forward email messages to an Internet or other external email system unless specifically authorized to do so in writing by their Department Head and the County CIO. Email messages that are manually forwarded must not contain information that is classified as confidential or restricted.



Acknowledgement of Receipt

This statement hereby incorporates Attachment A - Board of Supervisors Approved policy on "E-Mail", Attachment B - Board of Supervisors Approved Policy on "Internet Usage" and Attachment C - Additional Responsibilities for Users Accessing County IT Assets from a Non-County (Remote) Locations. Attachment C only applies to individuals that have been granted remote access privileges and should only be signed by those specific individuals. By signing this Statement, the following individual signifies that the County's User Responsibility Statement has been read and its contents understood. The signer also acknowledges that violation of any of its provisions may result in disciplinary action, leading up to and including termination and/or criminal prosecution.

The signer also acknowledges that this Statement will still be in effect following any transfer to another County Agency or Department, and that all of its provisions will continue to apply to the undersigned.

User Signature 
Print User Name **Thomas Calabro**
Computer Deductions Inc
Agency/Department _____
Date Signed _____



ATTACHMENT A - BOARD OF SUPERVISOR'S APPROVED POLICY
ON "E-MAIL"

Purpose of Policy

This policy addresses access to and the disclosure of information created, transmitted, received and stored via the County's e-mail systems. Access to e-mail is provided to employees and occasionally to other persons such as authorized contractors or volunteers (collectively referred to as "employees" in this policy), to assist them to perform their work, and their use of email must not jeopardize operation of the County's information systems or the reputation and integrity of the County. This policy is intended to ensure that County employees know their rights and responsibilities in using e-mail, and to ensure the appropriate, cost effective, and efficient use of County e-mail systems.

Use of the County's information systems must withstand public scrutiny. The California Public Records Act (CPRA), Government Code Section 6250, et. seq., requires the County to make all public records available for inspection and to provide copies upon request. A public record is any writing, including electronic documents, relating to the conduct of the people's business. Any information sent via e-mail may be subject to disclosure under the CPRA or requested in the process of litigation discovery. In addition, no use of licensed or copyrighted material should be made without permission from the holder of the license or copyright.

Appropriate Use of E-Mail

E-mail is provided as a business tool, however, its reasonable, incidental use for personal purposes is acceptable, so long as such use does not interfere with performance of work duties nor with the operation of the County's information systems.

A. No employee may use e-mail for inappropriate purposes, such as, but not limited to the following:

- (1) Personal profit, including commercial solicitation or conducting or pursuing their own business interests or those of another organization.
- (2) Unlawful or illegal activities.
- (3) Creation or dissemination of harassing or demeaning statements toward any individual or group for any reason, including on the basis of sex, age, race, color, national origin, creed, disability, political beliefs, organizational affiliation, or sexual orientation.



- (4) The dissemination of hoaxes, chain letters, or advertisements.
- (5) The knowing propagation or downloading of viruses or other contaminants.

B. Employees should not create, send, forward, or reply to distribution lists concerning non-County business. Employees should consider the impact on the County's networks when creating and using large, work-related distribution lists.

Access to Messages

A. Employees should have no expectation of privacy in any messages sent via e-mail over the County's networks; employees should not use the system for any messages that they wish to remain private. Any electronic information transported across the County's networks is potentially subject to access by technical support staff, and review, monitoring, and disclosure by an audit authority designated by an employee's department head (or by the County Executive with respect to usage by department and agency heads). All computer applications, programs, and work-related information created or stored by employees on the County's information systems are County property. If employees make incidental use of the e-mail system to transmit personal messages, such messages will be treated no differently from other messages.

B. The use of employee passwords and other message protection measures, other than those specifically authorized by the County, are prohibited. The County's authorization to use a password or other data protection measure shall not constitute consent by the County to maintain the messages as private.

C. This policy does not supplant the legal protections available to shield confidential, internal County communications from third party requests, such as information exempt from disclosure under the CPRA, shielded by attorney-client privilege, or subject to state law mandating confidentiality for specific subject matter.

Retention Policy

E-mail that is not necessary to the ordinary course of business should be routinely deleted.



Enforcement

Any violation of the County's e-mail policy may result in appropriate disciplinary action up to and including termination. Any improper e-mail will not be disclosed by the County to others except to the extent necessary to consider and to implement discipline, for other employment related purposes, or to respond to litigation requests. Potential criminal conduct which is revealed by improper e-mail will be referred to the appropriate law enforcement authorities.



**ATTACHMENT B – BOARD OF SUPERVISOR’S APPROVED POLICY
ON “INTERNET USAGE”**

Purpose of Policy

The Internet has become an increasingly important source of information for County employees. Many County employees, and occasionally others such as contractors and volunteers (collectively referred to in this policy as “employees”), are provided access to the Internet to assist in the performance of their work for the County. However, the diversity of information available on the Internet brings with it the potential for abuse. This policy is intended to ensure that County employees know their rights and responsibilities in using the Internet, and to ensure the appropriate, cost effective, and efficient use of County Internet access capabilities.

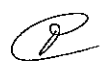
Use of the Internet via the County’s system must withstand public scrutiny. The California Public Records Act (CPRA), Government Code Section 6250, et. seq., requires the County to make all public records available for inspection and to provide copies upon request. A public record is any writing, including electronic documents, relating to the conduct of the people’s business. The CPRA applies to information processed, sent and stored on the Internet. Additionally, records of Internet use may be requested during litigation discovery. No use of licensed or copyrighted material should be made without permission from the holder of the license or copyright.

Appropriate Internet Use

Access to the Internet is provided as a business tool, however, its reasonable, incidental use for personal purposes is acceptable, so long as such use does not interfere with performance of work duties or the operation of County information systems.

A. No employee, however, may use the Internet for inappropriate purposes, such as, but not limited to the following:

- (1) Personal profit, including commercial solicitation or conducting or pursuing their own business interests or those of another organization.
- (2) Unlawful or illegal activities, including the downloading of licensed material without authorization, or downloading copyrighted material from the Internet without the publisher’s permission.
- (3) To access, create, transmit, print, download or solicit material that is or may be construed to be harassing or demeaning toward any individual or



group for any reason, including on the basis of sex, age, race, color, national origin, creed, disability, political beliefs, organizational affiliation, or sexual orientation.

(4) To access, create, transmit, print, download or solicit sexually-oriented messages or images.

(5) The knowing propagation or downloading of viruses or other contaminants.

B. Internet Relay Chat channels or other Internet forums such as newsgroups or net servers may be used only to conduct work-related business.

Access to Usage Records

A. Employees should have no expectation of privacy in their usage of the Internet. An audit authority designated by a department head may monitor usage of the Internet by department employees, including reviewing a list of sites accessed by an employee within the department; audit and examination of usage by an agency or department head shall be performed by a person designated by the County Executive. For this purpose, records of access to sites, materials and services on the Internet may be recorded and retained for a time period set by the County. The County or department head may restrict access to certain sites that it deems are not necessary for business purposes.

B. This policy does not supplant the legal protections available to shield confidential, internal County communications from third party requests, such as information exempt from disclosure under the CPRA, shielded by attorney-client privilege, or subject to state law mandating confidentiality for specific subject matter.

Enforcement

Violation of the County's policy on Internet use may result in appropriate disciplinary action up to and including termination. Any improper Internet usage will not be disclosed by the County to others except to the extent necessary to consider and to implement discipline, for other employment related purposes, or to respond to litigation requests. Potential criminal conduct which is revealed by inappropriate Internet usage will be referred to the appropriate law enforcement authorities.

Attachment C – Additional Responsibilities for Users Accessing County IT Assets from a Non-County (Remote) Locations

“Remote access” involves access to County Information Technology (IT) assets from a non-County infrastructure, no matter what technology is used to accomplish such access. This includes (but is not limited to) access to County IT assets from employee homes using modem-based or Internet connectivity, such as DSL or cable modem access. Systems that might be employed to accomplish such access include, but are not limited to, personal computers, workstations, laptops, palm-tops, “smart” phones, and any device that has network capabilities, such as routers and switches.

All remote access to County IT assets must be via secure, centralized, County-controlled mechanisms and technologies that have been reviewed and approved by the County CIO or designee. Users are not permitted to implement, configure, or use any remote access mechanism other than those that have been formally reviewed and approved in this manner. These approved technologies must include the following security features:

- Two-Factor Authentication: A strong method of authentication that verifies that the User is in fact the individual he is claiming to be. The two-factor authentication approach requires that the User provide two of the following three items: 1) something that the user has (such as a token card access device), 2) something that the user knows (such as a password or Personal Identification Number (PIN)), and 3) something that the user “is” (such as a fingerprint or retina scan). An equal or stronger authentication method may be used if approved by the County CIO or designee.
- User-specific, centrally controlled authorization (permissions) that limit User privileges once the User has been authenticated.
- Audit tools that create detailed records of all remote access attempts and remote access sessions including user identifier, date and time of access attempt.

The following regulations, responsibilities, and limitations apply to all Users attempting remote access to County IT assets, where a “User” is defined as *“any individual accessing and/or using County IT assets, including employees, contractors, sub-contractor, consultants, part-time employees, volunteers, and any other authorized individual attempting access or use of the County’s IT infrastructure.”*

- Remote access is supported and provided only for those Users that have both read and signed the County’s general User Responsibility Statement.

- Approval for use of County remote access mechanisms will be granted to a specific User, by the appropriate Agency/Department Head or designee, only on an individual, case-by-case basis. In general, approval for remote access is given only to those Users that require such access in order to perform their job functions.
- Remote access sessions may be monitored, recorded, and complete information on the session logged and archived. Users have no right, or expectation, of privacy when accessing County IT networks, systems, or data.
- Remote devices used for accessing County networks or systems may never be simultaneously connected to a non-County network or system, either directly or indirectly, while being used for remote access to the County, unless such a network or system is part of a remote access infrastructure approved by the County CIO or designee.
- All devices used to remotely access County IT assets must be configured according to County-approved security standards. These include installed, active, and current anti-virus software; software or hardware-based firewall; and any other security software or security-related system configurations that have been required and approved by the County.
- Users that have been provided with County-owned devices intended for remote access use, such as laptops and other portable devices, will take all reasonable care to ensure that these devices are protected from damage, access by third parties, loss, or theft.
- Remote access Users will practice due diligence in protecting the integrity of County networks, systems, and data while remotely accessing County IT assets. Specifically, all remote access sessions are subject to all other relevant County IT security policies and standards, including Local User Authentication, Data Classification, Internet Use, and Email.

Signature of Receipt:

By signing the Agreement, the User signifies that the contents of this Statement have been reviewed and understood, and that violation of its provisions may result in disciplinary action, leading up to and including termination and/or criminal prosecution.

The signer also acknowledges that this Statement will still be in effect following any transfer to another County Agency or Department, and that all of its provisions will continue to apply to the undersigned.



COUNTY OF SANTA CLARA AGREEMENT
EXHIBIT D – INSURANCE REQUIREMENTS

Indemnity

The Contractor shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor is obligated to indemnify, defend and hold harmless the County under this Agreement.

Insurance

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

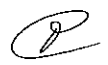
This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.



D. Insurance Required

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:
 - a. Each occurrence - \$500,000
 - b. General aggregate - \$500,000
 - c. Products/Completed Operations aggregate - \$500,000
 - d. Personal Injury - \$500,000

2. General liability coverage shall include:
 - a. Premises and Operations
 - b. Products/Completed
 - c. Personal Injury liability
 - d. Severability of interest

3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, which shall read:

"County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds."

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the additional insured endorsement as applicable and the contractor shall be notified by the contracting department of these requirements.

4. Automobile Liability Insurance
For bodily injury (including death) and property damage which provides total limits of not less than one hundred thousand dollars (\$100,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.

- 4a. Aircraft/Watercraft Liability Insurance (Required if Contractor or any of its agents or subcontractors will operate aircraft or watercraft in the scope of the Agreement)

For bodily injury (including death) and property damage which provides total limits of not less than one hundred thousand dollars (\$100,000) combined single limit per occurrence applicable to all owned, non-owned and hired aircraft/watercraft.

EXHIBIT D (B-2B)
Revised 4/2002 3

5. Workers' Compensation and Employer's Liability Insurance

- a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
- b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractor's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
3. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.
4. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

F. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this Agreement, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.

COUNTY OF SANTA CLARA AGREEMENT
EXHIBIT E – SOFTWARE MAINTENANCE

CTMC:

1. SOFTWARE SUPPORT SERVICES

With respect to the CTMC application software, CDI agrees to perform, or cause to be performed, the following support services:

- a. Basic operation consulting to the Customer providing guidance to any issue related to the CTMC application from 0800-1700 hours, Monday-Friday, with a 2 hour response.
- b. Remote problem resolution support in a timely manner for defects in the CTMC application software including problem analysis and the development, testing, and installation of problem fix or detour.
- c. Problem resolution support for Customer billing system interface to CTMC application software
- d. Configure CTMC application software for operation with CAL DOJ and Livescan devices used by the application.
- e. Consult to Customer operations to support UnixWare 7.1 system on County provided server.
- f. Retain a complete copy of the CTMC application software source code.

2. RESPONSIBILITIES OF CUSTOMER

With respect to the CTMC application software, the Customer agrees to perform, or cause to be performed, the following:

- a. Operate and maintain server hardware (SCO UnixWare 7.1 certified) for the CTMC platform.
- b. Operate and maintain the server operating system software (SCO UnixWare 7.1) for the CTMC platform.
- c. Operate and maintain network interface drop for CTMC to enable access to all Livescan devices and CAL DOJ.
- d. Operate and maintain e-mail access path from internet based Web application to CTMC.
- e. Operate and maintain remote Livescan devices for operation with CTMC.
- f. Operate and maintain accounting and billing system on separate server.
- g. Provide remote access capabilities to the CTMC for CDI support personnel.
- h. Supply any additional, mutually agreed upon hardware/software or expansions.



