

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND NATIONAL COUNCIL ON CRIME AND DELINQUENCY

This Agreement is entered into this 1st day of July, 2016, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and National Council on Crime and Delinquency (NCCD), hereinafter called "Contractor."

* * *

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of providing the platform for risk assessment tools for both juvenile and adult offenders.

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A - Services
- Exhibit B - Payments and Rates
- Exhibit C – CE Connect Order Form
- Attachment H—HIPAA Business Associate Requirements
- Attachment I—§ 504 Compliance

2. Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County's total fiscal obligation under this Agreement exceed **FOUR HUNDRED SEVEN THOUSAND, TWO HUNDRED TWELVE DOLLARS AND NINETY CENTS (\$407,212.90)**. In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 2016, through September 30, 2020.

5. Termination; Availability of Funds

This Agreement may be terminated by Contractor or by the Chief Probation Officer or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

6. Contract Materials

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

7. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

8. Hold Harmless

a. General Hold Harmless

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

- (A) injuries to or death of any person, including Contractor or its employees/officers/agents;
- (B) damage to any property of any kind whatsoever and to whomsoever belonging;
- (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or
- (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

b. Intellectual Property Indemnification

Contractor hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights") except as otherwise noted by this Agreement. Contractor warrants that the services it provides under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the services without infringement or (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the services under this Agreement which have been used by County in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

9. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

10. Payment of Permits/Licenses

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

11. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

☒ Comprehensive General Liability... \$1,000,000

(Applies to all agreements)

☐ Motor Vehicle Liability Insurance... \$1,000,000

(To be checked if motor vehicle used in performing services)

☐ Professional Liability..... \$1,000,000

(To be checked if Contractor is a licensed professional)

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

12. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Further, Contractor certifies that it and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware. Accordingly, Contractor shall not use any non-recyclable plastic disposable food service ware when providing prepared food on property owned or leased by the County and instead shall use biodegradable, compostable, reusable, or recyclable plastic food service ware on property owned or leased by the County.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

13. Non-Discrimination and Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations

for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

With respect to the provision of benefits to its employees, Contractor shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. In order to meet the requirements of Chapter 2.84, Contractor must certify which of the following statements is/are accurate:

- ☒ Contractor complies with Chapter 2.84 by offering the same benefits to its employees with spouses and its employees with domestic partners.
- ☐ Contractor complies with Chapter 2.84 by offering, in the case where the same benefits are not offered to its employees with spouses and its employees with domestic partners, a cash payment to an employee with a domestic partner that is equal to Contractor's cost of providing the benefit to an employee with a spouse.
- ☐ Contractor is exempt from having to comply with Chapter 2.84 because it has no employees or does not provide benefits to employees' spouses.
- ☐ Contractor does not comply with Chapter 2.84, and a waiver must be sought.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor must check one of the two following options, and by executing this Agreement, Contractor certifies that the option selected is accurate:

- ☒ No finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.
- ☐ Finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other

investigative entity. If this box is checked, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination.

g. Reporting; Violation of Non-discrimination Provisions

Contractor shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or Section 12, above. Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

14. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed Section 3, above, is less than one-hundred thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

15. Retention of Records; Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

16. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

17. Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

18. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: John T. Keene, Chief Probation Officer
Address: 222 Paul Scannell Drive, San Mateo, CA 94402
Telephone: (650) 312-5520
Facsimile: (650) 312-5597
Email: jkeene@smcgov.org

In the case of Contractor, to:

Name/Title: Laurie J. Wetzel, Chief Financial & Operations Officer
Address: 1970 Broadway, Suite 500, Oakland, CA 94612-0511
Telephone: (510) 874-5505
Facsimile: (608) 831-6446
Email: lwetzel@nccdglobal.org

19. Electronic Signature

If both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For County: ☒ If this box is checked by County, County consents to the use of electronic signatures in relation to this Agreement.

For Contractor: ☐ If this box is checked by Contractor, Contractor consents to the use of electronic signatures in relation to this Agreement.

* * *

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

COUNTY OF SAN MATEO

By:

President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:

Clerk of Said Board

~~Laurie J. Wetzel~~ Michael Osterberg, Controller
National Council on Crime and Delinquency



Contractor's Signature

Date: 5/31/16

(April 1, 2015 CCC issued contract template version)

Exhibit A
National Council on Crime and Delinquency
Services
July 1, 2016 through September 30, 2020

In consideration of the payments set forth in Exhibit B, Contractor and Subcontractor, Automon CeAssessments shall provide the following services:

National Council on Crime and Delinquency (NCCD) and Automon will provide Correctional Assessment and Intervention System™ (CAIS) and Juvenile Assessment and Intervention System™ (JAIS) assessments with unlimited reassessments and the data reporting feature included.

Contractor and Subcontractor, working in collaboration with the County, shall ensure the delivery of all products and services to the County in accordance with the terms, conditions, and specifications set forth in this Agreement. Automon CE Connect Order Form is attached hereto as Exhibit C and further defines the agreements between the County, Contractor and Sub-Contractor.

Background and Product Description

NCCD has developed and owns all rights, title and interest in a certain internet assessment and reporting service identified as the Correctional Assessment and Intervention System™, referred to as CAIS and the Juvenile Assessment and Intervention System™, referred to as JAIS™.

CAIS and JAIS are subscription assessments and case management services which score, classify, and provide recommendations to the County to assist in the County's supervision of adult and juvenile offenders. CAIS and JAIS identify specific strategies for the County's use that will likely result in positive changes for adult and juvenile offenders, respectively. The scoring and analysis on the assessment is provided by the AutoMon CeAssessments web browser in a series of concise, interactive reports. The AutoMon CeAssessments subscription provides a web-based data reporting package which provides aggregate reports on the County's population.

CAIS and JAIS permits the County to complement the professional judgment of the caseworker, providing immediate insight into what is causing the offender to act out, identifying service needs that are related to the offending behavior, calculating risk of recidivism, and assisting in the development of effective supervision plans.

A. Provision of Service

1. **Web-based CAIS and JAIS Assessments.** During the Term of this Agreement, NCCD will provide County with a subscription to the interactive web-based assessments and via the AutoMon CeAssessments aggregate data reporting, which permit the County to categorize the specific needs of cases.
2. **Updates.** During the Term of this Agreement, NCCD will provide regular updates to the CAIS and JAIS system based on continuing research and user input. Said updates will occur in a timeframe established by NCCD.
3. **Access to Website Restricted.** The right to access the CAIS and JAIS system and CeAssessments is jurisdiction and agency-specific. Only the County and its authorized employees may access or use the CAIS and JAIS or AutoMon CeAssessments website. Specifically, and not by way of limitation, County may not act as a relay allowing access

to the CAIS and JAIS system to any third party jurisdiction, agency, individual, or business.

4. Internal Business. County may only use the CAIS and JAIS systems for its own internal purposes. County's internal purposes do not include providing access to this service to third parties or performing cases management services for third parties. County data may be shared at County's discretion.
 5. Competing Services or Products. County shall not use all or any part of the CAIS and JAIS systems or the Documentation to create a service or product that competes with, or is used in a product that competes with, all or any part of CAIS and JAIS, regardless of whether such service or product is distributed with or without consideration.
 6. Copyright Ownership and License. County acknowledges NCCD owns the copyrights in all graphic interfaces, report displays and formats and the classifications or offender typologies ("Original Works")/ NCCD grants County a non-exclusive, fully paid up license to display, reproduce, distribute and create derivative works from the Original Works for its internal purposes for the Term of this Agreement.
 7. Fees. County will pay NCCD the subscription fees ("CAIS and JAIS Service Fees") according to the schedule specified in Exhibit B.
- B. Updates. During the Term of this Agreement, NCCD will provide to County updates, revisions, and modifications to CAIS and JAIS displays ("Updates") as such Updates become available. NCCD reserves the right to use updated displays, and analyses to produce such displays, in its publishing for other parties whether such displays were suggested by NCCD or requested by County.
- C. NCCD Warrant, Disclaimers, and Remedies.
1. Warranty. NCCD warrants that:
 - a) CAIS and JAIS will perform substantially as described in this Agreement and CAIS and JAIS promotional material.

NCCD will utilize all reasonable means and due diligence to protect the confidentiality of County data. NCCD is not responsible for the confidentiality of any County information once County copies, adapts, captures, prints, etc. such confidential information from the system.
 - b) Except for the foregoing express warranties, NCCD neither makes nor grants any other warranties, express or implied. NCCD excludes all implied warranties including specifically any implied warranty arising by statute or otherwise in or from a course of dealing or usage of trade including any and all implied warranties of merchantability, merchantable quality, or fitness for any purpose particular, specific, or otherwise. The foregoing express warranty is the only warranty of any kind for CAIS and JAIS. NCCD makes no warranties whatsoever for any Original Works that have been modified by County nor does NCCD warrant that CAIS and JAIS will be offered without interruption.
 - c) NCCD and/or AutoMon will use its best efforts to provide uninterrupted access to the JAIS via the AutoMon CeAssessments website during the Term of this Agreement. NCCD and/or AutoMon will notify County of any scheduled periods CAIS and JAIS will be unavailable for access.

- d) County acknowledges that NCCD provides no monitoring, analysis, or review of the accuracy or quality of the County's interview with offenders as it leads to data entered through County's CAIS and JAIS subscription.

2. Remedies. If the CAIS and JAIS subscription does not operate substantially as warranted (hereinafter describe as "Noncompliance"), County will provide NCCD with sufficient details as available to County about the Noncompliance to allow NCCD to reproduce it. As County's exclusive remedy for any Noncompliance, and as NCCD's entire liability in Agreement, tort, or otherwise of such Noncompliance, NCCD will either:

a) Correct the Noncompliance; or

b) If NCCD is unable to correct the Noncompliance after a reasonable opportunity to do so, County may:

- i. Request that NCCD fix any demonstrably incorrect information and request a pro-rate reduction in the CAIS and JAIS Subscription Fees; or
- ii. Terminate the CAIS and JAIS Subscription and received a pro-rated refund of the CAIS and JAIS Subscription Fee.

D. Intellectual Property Indemnification. If a third party claims that CAIS and JAIS infringes any copyright, patent, trade secret, or other rights of any third party, NCCD will (as long as County is not in material breach of this Agreement) defend County against such claim at NCCD's expense and NCCD will pay all damages that a court finally awards based solely on such claim, provided that County notifies NCCD in writing of such claim within 21 days of County's receipt of notice of the existence or possible existence of such claim, and further provided that County allows NCCD sole and exclusive control over the resolution of such claim and that County cooperates fully with NCCD, at NCCD's cost, in the defense of such claim and in any related settlement negotiations.

If such a claim is made or appears possible, NCCD may, using reasonable business judgment, either secure County's right to continue to use CAIS and JAIS by modifying or replacing the portion of JAIS that is the basis for the claim so that such portion of CAIS and JAIS is no longer infringing, or NCCD may provide County with a credit equal to the portion of previously paid CAIS and JAIS Subscription Fee prorated to the remainder of the Term or Renewal Term of the Agreement.

E. Limitation of NCCD's Liability, Consequential Damages. The cumulative liability of NCCD to County for all claims relating to CAIS and JAIS and any services rendered under this Agreement will not exceed the total amount of all CAIS and JAIS Subscription Fees paid to NCCD by County for CAIS and JAIS during the one-year period prior to the date NCCD is notified of such claim. This limitation will not apply to the indemnification provided in Section 6. In no event will NCCD be liable for any special, indirect, incidental, or consequential losses or damages even if NCCD has been advised of the possibility of such potential loss or damage.

F. County Warranties. County warrants that:

- 1. County will only allow access to CAIS and JAIS as permitted under this Agreement. If County wishes to extend its use of CAIS and JAIS beyond this Agreement, County will obtain NCCD's prior written consent and pay the applicable CAIS and JAIS Subscription Fees.

The County will provide one local staff contact person who shall maintain the County user access list and act as a liaison with NCCD for problems and questions. NCCD will set up this staff person with administrator rights in the system so that he/she, on behalf of the

County, will be responsible for assigning, maintaining, and terminating access to the CAIS and JAIS system by County staff.

G. General

1. Installation. County is responsible for providing access to the CAIS and JAIS via the AutoMon CeAssessments website via the Internet to its users. NCCD in collaboration with AutoMon will, as requested, provide reasonable assistance (up to three hours) with set-up of user workstations and use of the Ce Assessment platform via distance methods such as GoToMeeting at no additional charge to the fees.
2. Notification of Rights. In copying County information available through the CAIS and JAIS subscription as authorized under the terms of this Agreement, County will not remove, suppress or modify any notice of copyright, trademark, or other proprietary rights that appear in CAIS and JAIS. County will use reasonable efforts to keep persons with access to CAIS and JAIS from modifying, removing or suppressing any of the copyright notices that appear on CAIS and JAIS media, documentation, files, and banners.
3. CAIS and JAIS Service Fees. NCCD reserves the right to charge additional service fees if County seeks assistance for any other matters not explicitly covered by this Agreement.
4. Complete Agreement, Modification of this Agreement. This Agreement contains the complete and final agreement of the parties and supersedes previous understandings related to the subject matter hereof whether oral or written. This Agreement may only be modified by an amendment signed by authorized representatives of NCCD and County. Any term in County's purchase order that is in addition to or different from terms of this Agreement other than acceptance of the CAIS and JAIS Subscription Fees for the Renewal Term, are not part of this Agreement.
5. Non-assignment. Neither this Agreement nor the rights of County under this Agreement may be transferred, leased, assigned, or shared without NCCD's prior written consent.
6. Waiver. The waiver by either party of any default or breach of this Agreement does not constitute a waiver of any other default or breach of this Agreement or a subsequent waiver of that same default or breach.
7. Survival. All provisions of this Agreement relating to warranties, confidentiality, non-disclosure, proprietary rights, limitation of liability, indemnification obligations, and payment obligations survive the termination or expiration of this Agreement.
8. Headings. The headings used herein are for reference and convenience only and will not be used to interpret any provision of this Agreement.
9. HIPAA Compliance. NCCD will utilize all reasonable means and due diligence to protect the confidentiality and security of County data. County acknowledges that the privacy and security regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (the "HIPAA Privacy and Security Rules") do not apply to the County data which is the subject of this Agreement, because the data is not subject to requirements of HIPAA. However, NCCD acknowledges that the County data may include health information and other information of a personal and sensitive nature, and will adopt and keep current confidentiality and security procedures that are reasonably consistent with the current professional standards recommended by the HIPAA Privacy and Security Rules.
10. Notices. All notices or other communications required or permitted under this Agreement will be in writing and will be delivered by personal delivery, email (with delivery receipt),

registered mail return receipt requested, a "Next Day Air" delivery service, or by facsimile transmission, addressed to the parties indicated below:

County Responsibilities

- A. Designate at least one local CAIS and JAIS administrator coordinate with NCCD the handling of questions or issues regarding CAIS and JAIS.
- B. Provide access to the Internet CAIS and JAIS site via AutoMon CeAssessments <https://id.ce-connect.com/account/SignIn>.
- C. Training
 - 1. Contractor will coordinate all logistics related to training with the County's Training Coordinator.
 - 2. Contractor will provide all training related materials needed in order to effectively teach their courses including all hand-outs.
 - 3. The County will provide participants the necessary tape recorders and software needed to fulfill their training.
 - 4. The County will provide a room suitable for instruction with the following materials for each designated training day:
 - Tables and chairs
 - Five (5) easel stands with flipcharts
 - Markers
 - One (1) LCD projector and one (1) screen
 - Internet access
 - 5. The County will only provide access to the training facility at 7:30 a.m. The contractor is responsible for setting up the desired room configuration (ie. classroom style, group, U-shape, and/or etc.), and subsequently, all the clean-up of training room which includes returning the room back to its original design.

Exhibit B
National Council on Crime and Delinquency
Payments and Rates
July 1, 2016 through September 30, 2020

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms:

- A. Contractor shall be paid for actual services provided up to a maximum amount of **FOUR HUNDRED SEVEN THOUSAND, TWO HUNDRED TWELVE DOLLARS AND NINETY CENTS (\$407,212.90)** for the term of the contract.

Services	Contract Year				
	7/1/2015 - 9/30/2016	10/1/2016 - 9/30/2017	10/1/2017 - 9/30/2018	10/1/2018 - 9/30/2019	10/1/2019 - 9/30/2020
CAIS™ Subscription	\$8,032.50	\$32,772.60	\$33,428.05	\$34,096.61	\$34,778.55
JAIS™ Subscription	\$5,865.00	\$23,929.20	\$24,407.78	\$24,895.94	\$25,393.86
CeAssessments Subscription		\$9,468.53	\$9,752.59	\$10,045.17	\$10,346.52
CAIS™/JAIS™ PSM/Power User Technical Assistance		\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00
JAIS Case Plan Refresher*		\$8,000.00	\$8,000.00	\$8,000.00	\$8,000.00
CAIS Case Plan Refresher*		\$8,000.00	\$8,000.00	\$8,000.00	\$8,000.00
CAIS DPO Refresher**	\$8,000.00		\$8,000.00		\$8,000.00
JAIS DPO Refresher**		\$8,000.00		\$8,000.00	
Subtotals	\$21,897.50	\$94,170.33	\$ 95,588.42	\$97,037.72	\$98,518.92
Total	\$407,212.90				

*Training will be offered for all current DPOs in Year 1, but will only be offered to new DPOs starting Year 2

**Training will be offered to all DPOs every year, according to the schedule above

- B. Payment shall be made after receiving Contractor's invoices. All invoices must have the Agreement number written on them before submitting for payment.
- Invoices shall be in the format specified by the Probation Department. All claims shall clearly reflect and, in reasonable detail, give information regarding the services for which claim is made. Contractor shall bill for services provided monthly and for annual subscription fee on October 1st. The Chief Probation Officer or his designee will review and if acceptable, approve such invoices within thirty (30) working days. The County shall make payment for the department-approved invoices only. County shall have the right to withhold payment if it determines that the quantity and quality of work performed is unacceptable.
 - Contractor shall mail original, signed, hard copies of invoices for **CAIS** to: **Noelle Vergara, Management Analyst**, San Mateo County Probation Department, 222 Paul Scannell Drive, San Mateo, CA 94402.

Contractor shall mail original, signed, hard copies of invoices for **J AIS** to: **Michelle Mendez, Management Analyst**, San Mateo County Probation Department, 222 Paul Scannell Drive, San Mateo, CA 94402.

In addition, Contractor shall email copies of the original signed invoices to Noelle Vergara, Management Analyst at nvergara@smcgov.org and Michelle Mendez, Management Analyst at mcmendez@smcgov.org.

Contractor shall mail original, signed, hard copies of invoices for **training** to: **Bridget Love, Training Coordinator**, San Mateo County Probation Department, 222 Paul Scannell Drive, San Mateo, CA 94402.



Exhibit C
National Council on Crime & Delinquency
7-1-16 through 9-30-2020

CE CONNECT ORDER FORM

Order Form No.:	SMCPD09182014
Customer Name:	San Mateo County Probation Department
Order Form Date:	5/19/2016
Order Form Expiration Date:	September 30, 2014

This Order Form incorporates by reference the **Master Subscription Agreement for Ce Connect Products**, a copy of which has been attached. Capitalized terms used herein but not defined in this Order Form have the meanings given to them in the Master Subscription Agreement. Upon completion and execution by the parties, this Order Form shall be considered binding.

Purchased Services – Annual Subscription Fees

Products & Services	Contract Year				
	10/1/2015 - 9/30/2016	10/1/2016 - 9/30/2017	10/1/2017 - 9/30/2018	10/1/2018 - 9/30/2019	10/1/2019 - 9/30/2020
Ce Assessments Subscription	NCCD Paid: \$9,192.75	\$9,468.53	\$9,752.59	\$10,045.17	\$10,346.52

Product Services

Product Name	Licensed (Yes/No)
Ce Assessments – 5 Year Subscription 10/1/2015 to 9/30/2020 – Limited to use by San Mateo County Probation Department	Yes
Adult Assessment and Interview System (CAIS) (NCCD) – Access to the CAIS™ Men's and Women's Assessments, CAIS™ Men's and Women's Initial Risk Assessments and Reassessments via AutoMon's Ce Assessments, Use Terms and Conditions are pursuant to Contract NCCD ContractFY1220_v11_DH_050516 between County of San Mateo and National Council of Crime and Delinquency (NCCD) – Limited to use by San Mateo County Probation Department	Yes
Juvenile Risk and Intervention System (JAIS) (NCCD) – Access to the JAIS™ Boys and Girls Assessments, JAIS™ Boys and Girls Initial Risk Assessments and Reassessments via AutoMon's Ce Assessments, Use Terms and Conditions are pursuant to Contract NCCD ContractFY1220_v11_DH_050516 between County of San Mateo and National Council of Crime and Delinquency (NCCD) – Limited to use by San Mateo County Probation Department	Yes

Product(s)/Services Provided to The County by AutoMon, LLC

Through this Order Form, governed by the **Master Subscription Agreement for Ce Connect Products**, AutoMon provides to the **San Mateo County Probation Department** unlimited use of Ce Assessments and Ce Planning, two SaaS products wholly owned by AutoMon. Ce Assessments shall serve as the sole



delivery platform for NCCD's proprietary assessment instruments, CAIS™ Men's and Women's Assessments, CAIS™ Men's and Women's Initial Risk Assessments and Reassessments and JAIS™ Boys and Girls Assessments, JAIS™ Boys and Girls Initial Risk Assessments and Reassessments. CE Assessments provides automated current versions of all NCCD assessments instruments that reflect all tenant rules established between NCCD and the County and all NCCD proprietary scoring algorithms. CE Assessments provides both CAIS™ and JAIS™ assessment summaries, tracks and stores all historic assessments, provides officer alerts based on pre-defined reassessment policies, as well as configurable metrics (by user) to provide detailed analysis of the agency's assessment data.

Ce Planning - offered to The County at no additional cost to the County and tightly integrated with Ce Assessments - is an automated Case Planning tool that is pre-populated with identified Needs from the CAIS™ and JAIS™ assessment instruments that provides officers tools to more easily create and manage dynamic client case plans. Ce Planning provides the ability to generate and electronically sign Title IV-E Pre-Placement/Placement, TILP and NMD case plans.

PAYMENT TERMS:

Subscription Payments to AutoMon shall be made by directly by NCCD on behalf of the County.

GENERAL NOTES:

- Resource requirements represent good faith estimates based on information provided to AutoMon as of the Order date by Customer.
- AutoMon reserves the right to revise Order resource estimates if Customer modifies the task, omits tasks or makes changes in original request provided by Customer.
- AutoMon reserves the right to cancel the Order if not accepted in writing and transmitted to AutoMon by customer by Order Expiration Date listed above.
- Annual Subscription Fee is subject to annual escalation in price equal to 3%.
- Ce Assessments subscription is limited to use by **San Mateo County Probation Department**.
- All CAIS and JAIS data analysis requests and CAIS™ and JAIS™ scoring questions and interpretations go through NCCD. NCCD CAIS™ and JAIS™ program analysts will have direct access to subscriber CAIS™ and JAIS™ complete data.

- **General Hold Harmless**

Contractor indemnifies and saves harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

(A) injuries to or death of any person, including Contractor or its employees/officers/agents;

(B) damage to any property of any kind whatsoever and to whomsoever belonging;

(C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or



(D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code

On behalf of Customer San Mateo County Probation Department, I have read and accept the above Order Form:

San Mateo County Probation Department
222 Paul Scannell Drive
San Mateo, CA 94402
Phone: (650) 312-5549

AutoMon, LLC
6621 N. Scottsdale Road
Scottsdale, AZ 85250
Phone: (480) 368-8555

By:

Name (Print):

John T. Keene

Title:

Chief Probation Officer

Date:

5/25/16

By:

Name (Print):

Scot Asher

Title:

Vice President, Sales & Marketing

Date:

5/19/2016

Attachment H

Health Insurance Portability and Accountability Act (HIPAA) Business Associate Requirements

DEFINITIONS

Terms used, but not otherwise defined, in this Schedule shall have the same meaning as those terms are defined in 45 Code of Federal Regulations (CFR) sections 160.103, 164.304, and 164.501. All regulatory references in this Schedule are to Title 45 of the Code of Federal Regulations unless otherwise specified.

- a. **Business Associate.** "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the parties to this agreement shall mean Contractor.
- b. **Covered Entity.** "Covered entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this agreement shall mean County.
- c. **HIPAA Rules.** "HIPAA rules" shall mean the Privacy, Security, Breach Notification and Enforcement Rules at 45 CFR part 160 and part 164, as amended and supplemented by Subtitle D of the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009.
- d. **Designated Record Set.** "Designated Record Set" shall have the same meaning as the term "designated record set" in Section 164.501.
- e. **Electronic Protected Health Information.** "Electronic Protected Health Information" (EPHI) means individually identifiable health information that is transmitted or maintained in electronic media; it is limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.
- f. **Individual.** "Individual" shall have the same meaning as the term "individual" in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- g. **Privacy Rule.** "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- h. **Protected Health Information.** "Protected Health Information" (PHI) shall have the same meaning as the term "protected health information" in Section 160.103 and is limited to the information created or received by Business Associate from or on behalf of County.
- i. **Required By Law.** "Required by law" shall have the same meaning as the term "required by law" in Section 164.103.
- j. **Secretary.** "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- k. **Breach.** The acquisition, access, use, or disclosure of PHI in violation of the Privacy Rule that compromises the security or privacy of the PHI and subject to the exclusions set forth in Section 164.402. Unless an exception applies, an impermissible use or disclosure of PHI *is presumed* to be a breach, unless it can be demonstrated there is a low

probability that the PHI has been compromised based upon, at minimum, a four-part risk assessment:

1. Nature and extent of PHI included, identifiers and likelihood of re-identification;
 2. Identity of the unauthorized person or to whom impermissible disclosure was made;
 3. Whether PHI was actually viewed or only the opportunity to do so existed;
 4. The extent to which the risk has been mitigated.
- l. **Security Rule.** "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.
- m. **Unsecured PHI.** "Unsecured PHI" is protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in relevant HHS guidance.
- n. **Security Incident.** "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. "Security Incident" includes all incidents that constitute breaches of unsecured protected health information.

OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE

- a. Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as required by law.
- b. Business Associate agrees to use appropriate safeguards to comply with Subpart C of 45 CFR part 164 with respect to EPHI and PHI, and to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Business Associate agrees to make uses and disclosures requests for Protected Health Information consistent with minimum necessary policy and procedures.
- d. Business Associate may not use or disclose protected health information in a manner that would violate subpart E of 45 CFR part 164.504 if used or disclosed by Covered Entity.
- e. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- f. Business Associate agrees to report to County any use or disclosure of Protected Health Information not authorized by this Agreement.
- g. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of County, agrees to adhere to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- h. If Business Associate has Protected Health Information in a Designated Record Set, Business Associate agrees to provide access, at the request of County, and in the time and manner designated by County, to Protected Health Information in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under Section 164.524.

- i. If Business Associate has Protected Health Information in a Designated Record Set, Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs or agrees to make pursuant to Section 164.526 at the request of County or an Individual, and in the time and manner designed by County.
- j. Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of County, available to the County at the request of County or the Secretary, in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining County's compliance with the Privacy Rule.
- k. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- l. Business Associate agrees to provide to County or an Individual in the time and manner designated by County, information collected in accordance with Section (k) of this Schedule, in order to permit County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- m. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of County.
- n. Business Associate shall conform to generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information.
- o. Business Associate shall ensure that any agent to whom it provides EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such EPHI.
- p. Business Associate shall report to County any Security Incident within three (3) business days of becoming aware of such incident. Business Associate shall also facilitate breach notification(s) to the appropriate governing body (i.e. HHS, OCR, etc.) as required by law. As appropriate and after consulting with County, Business Associate shall also notify affected individuals and the media of a qualifying breach.
- q. Business Associate understands that it is directly liable under the HIPAA rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of Protected Health Information that are not authorized by this Attachment, the underlying contract as or required by law.

PERMITTED USES AND DISCLOSURES BY CONTRACTOR AS BUSINESS ASSOCIATE

Except as otherwise limited in this Schedule, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, County as specified in the Agreement; provided that such use or disclosure would not violate the Privacy Rule if done by County.

OBLIGATIONS OF COUNTY

- a. County shall provide Business Associate with the notice of privacy practices that County produces in accordance with Section 164.520, as well as any changes to such notice.
- b. County shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.
- c. County shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that County has agreed to in accordance with Section 164.522.

PERMISSIBLE REQUESTS BY COUNTY

County shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if so requested by County, unless the Business Associate will use or disclose Protected Health Information for, and if the Agreement provides for, data aggregation or management and administrative activities of Business Associate.

DUTIES UPON TERMINATION OF AGREEMENT

- a. Upon termination of the Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from County, or created, maintained, or received by Business Associate on behalf of County, that Business Associate still maintains in any form. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
- b. In the event that Business Associate determines that returning or destroying Protected Health Information is infeasible, Business Associate shall provide to County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of the Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

MISCELLANEOUS

- a. **Regulatory References.** A reference in this Schedule to a section in the HIPAA Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- b. **Amendment.** The Parties agree to take such action as is necessary to amend this Schedule from time to time as is necessary for County to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.

- c. **Survival.** The respective rights and obligations of Business Associate under this Schedule shall survive the termination of the Agreement.
- d. **Interpretation.** Any ambiguity in this Schedule shall be resolved in favor of a meaning that permits County to comply with the Privacy Rule.
- e. **Reservation of Right to Monitor Activities.** County reserves the right to monitor the security policies and procedures of Business Associate.

ATTACHMENT I

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

- ☐ a. Employs fewer than 15 persons.
- ☒ b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person:

Toni Aleman

Name of Contractor(s):

National Council on Crime and Delinquency

Street Address or P.O. Box:

1970 Broadway, Suite 500

City, State, Zip Code:

Oakland, CA 94612

I certify that the above information is complete and correct to the best of my knowledge

Signature:



Title of Authorized Official:

Controller

Date:

5/31/16

*Exception: DHHS regulations state that: "If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."