CONTRACT

The COUNTY OF SAN BENITO ("COUNTY") and _____ Corrections   Software   Solutions,   L.P. ("CONTRACTOR") enter into this contract which shall be effective on the date stated in Paragraph 1.

1. **Duration of Contract**

   This contract shall commence on July 01, 2016 and end on June 30, 2019, unless sooner terminated as specified herein.

2. **Scope of Services.**

   CONTRACTOR, for COUNTY's benefit shall perform the services specified on Attachment A to this contract. Attachment A is made a part of this contract.

3. **Compensation for Services.**

   In consideration for CONTRACTOR's performance, COUNTY shall pay compensation to CONTRACTOR according to the terms specified in Attachment B. Attachment B is made a part of this contract.

4. **General Terms and Conditions.**

   The rights and duties of the parties to this contract are governed by the general terms and conditions mutually agreed to and listed in Attachment C. Attachment C is made a part of this contract.

5. **Insurance Limits.**

   CONTRACTOR shall maintain the following insurance policy limits of coverage consistent with the further insurance requirements specified in Attachment C.

   (a)   Comprehensive general liability insurance: $ 1,000,000
   (b)   Professional liability insurance: $ 1,000,000
   (c)   Comprehensive motor vehicle liability insurance: $ 300,000

6. **Termination for Cause.**

   If CONTRACTOR shall default and fail to perform any material obligations agreed to be performed by CONTRACTOR hereunder, the COUNTY shall notify CONTRACTOR in writing of the facts constituting such default or failure. CONTRACTOR shall cause such default or failure to be remedied within (30) days after receipt of such written notice. If CONTRACTOR does not cause such default or failure within (30) days after receipt of such written notice, the COUNTY shall have the right, by further written notice to CONTRACTOR to terminate the agreement.

   In the event the default or failure requires more than thirty (30) days to cure, CONTRACTOR shall have a reasonable period to effectuate such remedy. The COUNTY shall have the right to determine if CONTRACTOR has effected the necessary remedy.

7. **Termination for Convenience.**

Either party may terminate this Contract at any time by giving the other party at least 30 calendar days written notice of termination for convenience. ("Notice of Termination for Convenience"). Termination for convenience shall be effective at 11:59 p.m., pacific standard time, on the intended date for termination (the "Termination Date"). The terminating party shall deliver to the other party a notice specifying the date upon which such termination will become effective, which shall be at least 30 calendar days after the date of the notice.

Termination for convenience shall have no effect upon the rights and obligations of the parties arising out of any services which were provided prior to the effective date of such termination. After receiving Notice of Termination for Convenience, contractor shall, unless directed by County, place no further subcontracts for services or materials, terminate all subcontracts to the extent they relate to the work terminated, and settle all outstanding liabilities arising from the termination of subcontracts.

8. **Specific Terms and Conditions** *(check one)*

[ ]   There are no additional provisions to this contract.

[X]   The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment D. Attachment D is made a part of this contract.

[X]   The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment E. Attachment E is made a part of this contract.

9. **Information about Contract Administrators.**

The following names, titles, addresses, and telephone numbers are the pertinent information for the respective contract administrators for the parties.

Contract Administrator for **COUNTY:**	Contract Administrator for **CONTRACTOR:**
Name: R. Ted Baraan	Name: James Redus
Title: Chief Probation Officer	Title: President, Corrections Software Solutions
Address: 400 Monterey Street	Address: 316 North Lamar
Hollister, California 95023	Austin, Texas 78703
Telephone No.: 831-636-4070	Telephone No.: 512-347-1366
Fax No.: 831-636-5682	Fax No. 512-347-1310

SIGNATURES

APPROVED BY COUNTY:

_____

Name: Robert Rivas

Chair, San Benito County Board of Supervisors

Dated: _____

APPROVED BY CONTRACTOR:

Name: James Redus

Title: President

Dated: 8-17-16

APPROVED AS TO LEGAL FORM:

Matthew Granger, San Benito County Counsel

_____

By: _____

Dated: _____

ATTACHMENT A

SCOPE OF SERVICES

CONTRACTOR agrees to provide the following services:

1. Continue Operating System and Application Software on COUNTY virtual environment or web based cloud environment if requested by the County Probation Department.

2. Customized changes for COUNTY are included at no charge.

3. Training on-site as needed at no extra charge.

4. Application support at no extra charge.

5. Software Enhancements and Resolutions at no extra charge.

6. Access to CONTRACTOR's support website for support ticket entry and retrieval.

7. Provide a Secure website system for connection to CONTRACTOR utilizing the COUNTY's Certification Authority.

8. CONTRACTOR will provide COUNTY with a Non-exclusive License agreement as part of this Contract.

9. Any existing or new CONTRACTOR's personnel assigned to this COUNTY system must sign COUNTY release waiver for confidentiality purposes, fingerprinted and may be background checked. Any changes in CONTRACTOR's personnel, COUNTY must be notified of same.

ATTACHMENT A

SCOPE OF SERVICES (Continued)

COUNTY agrees to provide the following services:

1. Continue virtual server on COUNTY's network to allow CONTRACTOR's application to be operated by COUNTY Probation Department's workstations.

2. Allow outgoing connection from COUNTY's network to CONTRACTOR's network in Austin, Texas.

3. COUNTY will continue to provide all hardware for operations including workstations, printers, cameras, signature pads, scanners or other devices.

4. All COUNTY workstations must have in operation Internet Explorer 10.0 or better and Microsoft Word 2010 or better.

5. COUNTY to continue to provide an Issuing Certification Authority to CONTRACTOR's server.

ATTACHMENT B

PAYMENT SCHEDULE

B-1. BILLING
Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (check one)

 [ ] One month in arrears.
 [ ] Upon the complete performance of the services specified in Attachment A.
 [X] The basis specified in paragraph B-4.

B-2. PAYMENT
Payment shall be made by COUNTY to CONTRACTOR at the address specified in paragraph 8 of this contract, net thirty (30) days from the invoice date.

B-3. COMPENSATION
COUNTY shall pay to CONTRACTOR: (check one)

 [ ] a total lump sum payment of $ _____ , or

 [X] a total sum not to exceed $ _____ $60,192.00 _____ ,

for services rendered pursuant to the terms and conditions of this contract and pursuant to any special compensation terms specified in this attachment, Attachment B.

B-4. SPECIAL COMPENSATION TERMS: (check one)
[ ] There are no additional terms of compensation.
[X] The following specific terms of compensation shall apply: (Specify)

COUNTY shall pay CONTRACTOR a monthly service fee is $1,672.00 per month for 36 months, which totals $60,192.

The monthly service fee shall thereafter renew for successive periods ("Renewal Term") unless terminated by either party upon written notice to the other party pursuant to Section 6 of this Contract. All terms and conditions shall apply during the Renewal Term.

ATTACHMENT C
General Terms and Conditions

C-1. INDEMNIFICATION.

CONTRACTOR and COUNTY each agree to indemnify, defend and save harmless the other party and the other party's officers and employees, from and against any and all claims and losses whatsoever arising out of, or in any way related to, the indemnifying party's performance under this contract, including, but not limited to, claims for property damage, personal injury, death, and any legal expenses (such as attorneys' fees, court costs, investigation costs, and experts' fees) incurred by the indemnitee in connection with such claims or losses. A party's "performance" includes the party's action or inaction and the action or inaction of that party's officers and employees.

C-2. GENERAL INSURANCE REQUIREMENTS.

Without limiting CONTRACTOR's duty to indemnify COUNTY, CONTRACTOR shall comply with the insurance coverage requirements set forth in the contract and in this attachment. Those insurance policies mandated by Paragraph C-3 shall satisfy the following requirements:

(a)   Each policy shall be issued by a company authorized by law to transact business in the State of California.

(b)   Each policy shall provide that COUNTY shall be given notice in writing at least thirty (30) days in advance of any change, cancellation, or nonrenewal thereof.

(c)   The comprehensive motor vehicle and comprehensive general liability policies shall each provide an endorsement naming the County of San Benito and its officers, agents and employees as additional insureds.

(d)   The required coverage shall be maintained in effect throughout the term of this contract.

CONTRACTOR shall require all subcontractors performing work under this contract to obtain substantially the identical insurance coverage required of CONTRACTOR pursuant to this agreement.

C-3. INSURANCE COVERAGE REQUIREMENTS.

If required by paragraph 5 of the contract, CONTRACTOR shall maintain the following insurance policies in full force and effect during the term of this contract:

(a)   Comprehensive general liability insurance. CONTRACTOR shall maintain comprehensive general liability insurance, covering all of CONTRACTOR's operations with a combined single limit of not less than the amount set out in paragraph 5 of this contract.

(b)   Professional liability insurance. CONTRACTOR shall maintain professional liability insurance with liability limits of not less than the amount set out in paragraph 5 of this contract.

(c) Comprehensive motor vehicle liability insurance. CONTRACTOR shall maintain comprehensive motor vehicle insurance covering all motor vehicles (including owned, non-owned and hired) used in providing services under this contract, with a combined single limit of not less than the amount set out in Paragraph 5 of this contract.

(d) Workers' compensation insurance. CONTRACTOR shall maintain a workers' compensation plan covering all of its employees as required by California Labor Code Section 3700, either through workers' compensation insurance issued by an insurance company or through a plan of self-insurance certified by the State Director of Industrial Relations. If CONTRACTOR elects to be self-insured, the certificate of insurance otherwise required by this contract shall be replaced with a consent to self-insure issued by the State Director of Industrial Relations.

C-4. CERTIFICATE OF INSURANCE.

Prior to the commencement of performance of services by CONTRACTOR and prior to any obligations of COUNTY, CONTRACTOR shall file certificates of insurance with COUNTY, showing that CONTRACTOR has in effect the insurance required by this contract. CONTRACTOR shall file a new or amended certificate promptly after any change is made in any insurance policy which would alter the information on the certificate then on file. In lieu of providing proof of insurance, CONTRACTOR may provide proof of self-insurance meeting requirements equivalent to those imposed herein. CONTRACTOR warrants that CONTRACTOR's self-insurance provides substantially the same protection to COUNTY as the insurance required herein. CONTRACTOR further agrees to notify COUNTY in the event any change in self-insurance occurs that would alter the obligations undertaken in this contract within thirty (30) days of such change.

C-5. RECORDS TO BE MAINTAINED.

CONTRACTOR shall keep and maintain accurate records of all costs incurred and all time expended for work under this contract. CONTRACTOR shall contractually require that all of CONTRACTOR's subcontractors performing work called for under this contract also keep and maintain such records. All such records, whether kept by CONTRACTOR or any subcontractor, shall be made available to COUNTY or its authorized representative, or officials of the State of California for review or audit during normal business hours, upon reasonable advance notice given by COUNTY, its authorized representative, or officials of the State of California.

C-6. RETENTION OF RECORDS.

CONTRACTOR shall maintain and preserve all records related to this contract for a period of three years from the close of the fiscal year in which final payment under this contract is made. CONTRACTOR shall also contractually require the maintenance of such records in the possession of any third party performing work related to this contract for the same period of time. Such records shall be retained beyond the three-year period, if any audit involving such records is then pending, until the audit findings are resolved. The obligation to insure the maintenance of the records beyond the initial three year period shall arise only if the COUNTY notifies CONTRACTOR of the commencement of an audit prior to the expiration of the three year period.

C-7. INDEPENDENT CONTRACTOR.

CONTRACTOR and its officers and employees, in the performance of this contract, are independent contractors in relation to COUNTY and not officers or employees of COUNTY. Nothing in this contract shall create any of the rights, powers, privileges or immunities of any officer or employee of COUNTY. CONTRACTOR shall be solely liable for all applicable taxes or benefits, including, but not limited to, federal and state income taxes, Social Security taxes, or ERISA retirement benefits, which taxes or benefits arise out of the performance of this contract. CONTRACTOR further represents to COUNTY that CONTRACTOR has no expectation of receiving any benefits incidental to employment.

C-8. CONFLICT OF INTEREST.

CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. CONTRACTOR further covenants that, in the performance of this contract, no subcontractor or person having such an interest shall be used or employed.

C-9. COMPLIANCE WITH APPLICABLE LAWS.

CONTRACTOR shall comply with all applicable federal, state and local laws now, or hereafter, in force, and with any applicable regulations, in performing the work and providing the services specified in this contract. This obligation includes, without limitation, the acquisition, and maintenance of any permits, licenses, or other entitlements necessary to perform the duties imposed expressly or impliedly under this contract.

C-10. NONDISCRIMINATION.

CONTRACTOR shall not discriminate in the employment of persons necessary to perform this contract on any legally impermissible basis, including on the basis of the race, color, national origin, ancestry, religion, age, sex, or disability of such person.

C-11. BANKRUPTCY.

CONTRACTOR shall immediately notify COUNTY in the event that CONTRACTOR ceases conducting business in the normal manner, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of, or becomes subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors.

C-12. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION OF DUTIES.

Except as specifically authorized herein, no rights under this contract may be assigned and no duties under this contract may be delegated by CONTRACTOR without the prior written consent of COUNTY, and any attempted assignment or delegation without such consent shall be void.

C-13. NEGOTIATED CONTRACT.

This contract has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this contract within the meaning of California Civil Code Section 1654.

C-14. SEVERABILITY.

Should any provision herein be found or deemed to be invalid, this contract shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect. To this end, the provisions of this contract are declared to be severable.

C-15. ENTIRE CONTRACT.

This contract is the entire agreement of the parties. There are no understandings or agreements pertaining to this contract except as are expressly stated in writing in this contract or in any document attached hereto or incorporated herein by reference.

C-16. TIME IS OF THE ESSENCE.

Time is of the essence in the performance of this contract.

C-17. NOTICES.

Notices to the parties in connection with the administration of this contract shall be given to the parties' contract administrator personally, by regular mail, or by facsimile transmission as more particularly specified in this paragraph. Notices will be deemed given on:

(a)   The day the notice is personally delivered to the contract administrator or the office of the party's contract administrator; or

(b)   Five days after the date the notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, with first-class postage fully prepaid; or

(c)   On the day that the notice is transmitted by facsimile to a party's facsimile number specified in paragraph 8 of this contract, provided that an original of such notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contact, on the same day as the facsimile transmission is made.

C-18. RESPONSIBILITY OF CONTRACT ADMINISTRATORS.

All matters concerning this contract which are within the responsibility of the parties shall be under the direction of, or shall be submitted to, the respective contract administrators or to the party's employee specified, in writing, by the contract administrator. A party may, in its sole discretion, change its designation of its contract administrator and shall promptly give written notice to the other party of any such change.

C-19. MATERIALITY.

The parties consider each and every term, covenant, and provision of this contract to be material and reasonable.

C-20. WAIVER.

Waiver by either party of a breach of any covenant of this contract will not be construed to be a continuing waiver of any subsequent breach. COUNTY's receipt of consideration with knowledge of CONTRACTOR's violation of a covenant does not waive its right to enforce any covenant of this contract. The parties shall not waive any provisions of this contract unless the waiver is in writing and signed by all parties.

C-21. AUTHORITY AND CAPACITY.

CONTRACTOR and CONTRACTOR's signatory each warrant and represent that each has full authority and capacity to enter into this contract.

C-22. BINDING ON SUCCESSORS.

All of the conditions, covenants and terms herein contained shall apply to, and bind, the heirs, successors, executors, administrators and assigns of CONTRACTOR. CONTRACTOR and all of CONTRACTOR's heirs, successors, executors, administrators, and assigns shall be jointly and severally liable under this contract.

C-23. CUMULATION OF REMEDIES.

All of the various rights, options, elections, powers and remedies of the parties shall be construed as cumulative, and no one of them exclusive of any other or of any other legal or equitable remedy which a party might otherwise have in the event of a breach or default of any condition, covenant or term by the other party. The exercise of any single right, option, election, power or remedy shall not, in any way, impair any other right, option, election, power or remedy until all duties and obligations imposed shall have been fully performed.

C-24. INDEPENDENT ADVICE.

Each party hereby represents and warrants that in executing this contract it does so with full knowledge of the rights and duties it may have with respect to the other. Each party also represents and warrants that it has received independent legal advice from its attorney with respect to the matters set forth in this contract and the rights and duties arising out of this contract, or that such party willingly foregoes any such consultation.

C-25. NO RELIANCE ON REPRESENTATIONS.

Each party hereby represents and warrants that it is not relying, and has not relied, upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this contract may hereunder turn out to be other than, or different from the facts now known to such party as true, or believed by such party to be true. The parties expressly assume the risk of the facts turning out to be different and agree that this contract shall be effective in all respects and shall not be subject to rescission by reason of any such difference in facts.

C-26. REDUCTION OF CONSIDERATION.

CONTRACTOR agrees that COUNTY shall have the right to deduct from any payments specified in Attachment B any amount owed to COUNTY by CONTRACTOR as a result of any obligation arising prior to, or after, the execution of this contract. For purposes of this paragraph, obligations arising prior to, or after, the execution of this contract may include, without limitation, any property tax, secured or unsecured, which tax is in arrears. If COUNTY exercises the right to reduce the consideration specified in Attachment B, COUNTY, at the time of making a reduced payment, shall give CONTRACTOR notice of the amount of any off-set and the reason for the reduction.

C-27. COUNTERPARTS.

This contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original. The counterparts shall together constitute one contract.

END OF ATTACHMENT C.

ATTACHMENT D TO DATA PROCESSING SERVICE AGREEMENT

NONEXCLUSIVE LICENSE AGREEMENT

Corrections Software Solutions, L.P. ("CSS"), with offices located at 316 North Lamar Boulevard, Austin, Texas 78703, for good and valuable consideration, hereby grants a royalty-free, non-exclusive, limited license ("License") to:

The COUNTY OF SAN BENITO, with offices at 400 Monterey Street, Hollister, CA 95023, collectively "Licensee",

to use certain software programs and related materials ("Programs") for the designated processing system identified in the attached **CONTRACT**, subject to the terms and conditions hereof.

Programs shall include executable modules for each software program identified in any Contract or Addendum to this Agreement; User Help is contained in the application.

Onsite Installation

LICENSEE ACKNOWLEDGES THAT LICENSEE HAS READ THIS LICENSE AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. LICENSEE FURTHER AGREES THAT THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE LICENSE AGREEMENT BETWEEN CSS AND THE LICENSEE AS CONCERNS THE LICENSE OF THE PROGRAMS AND NO VARIATIONS IN THE TERMS AND CONDITIONS OF THIS AGREEMENT SHALL HAVE ANY EFFECT UNLESS AGREED TO IN WRITING IN ADVANCE BY CSS. THIS AGREEMENT SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT, ORAL OR WRITTEN, OR ANY OTHER COMMUNICATION BETWEEN CSS AND LICENSEE RELATING TO THIS LICENSE AGREEMENT.	Signed: _____ R. Ted Baraan Chief Probation Officer, San Benito County Date: For CSS Use ONLY

TERMS AND CONDITIONS

1.   LICENSE

Licensee acknowledges that it shall be a licensee of Corrections Software Solutions, L.P. ("CSS") under the terms and conditions of this License Agreement, and that Licensee obtains hereby only a non-exclusive, limited license to use or access the Programs. Licensee has the right to permit access and use of the Program(s) by authorized Licensee employees, up to the User Number specified in **Data Processing Contract** hereto.   Licensee shall assign a unique User Identification Number to each authorized User, and shall provide to CSS a list of authorized Users and their User Identification Numbers upon request by CSS.

As specified in **Data Processing Contract** hereto, CSS shall provide the Programs or access to them to Licensee based either on installation of the Programs by CSS at a CSS Internet Location. Licensee shall be solely responsible for providing access to the Internet and for the costs of accomplishing such access, including without limitation costs of an Internet Service Provider.

All rights, title and interests in and to the Programs licensed under this License Agreement remain with CSS and do not pass to Licensee in whole or any part except as expressly provided herein.   Licensee acknowledges that the Programs contain valuable proprietary information and trade secrets of CSS, the unauthorized disclosure of which would cause competitive and actual harm to CSS.   For the purposes of this License, the term Programs shall include: any and all software or other intellectual property licensed for use by Licensee hereunder, as identified in **Data Processing Contract** hereto, including also any and all documentation or other materials in whatever form and on whatever media stored, that describe, relate to or concern the Programs.

Licensee may not transfer the Programs electronically from one computer to another over a network or by other means, or access and use the Programs by remote means other than as expressly authorized herein; the Programs may be installed on only one (1) computer or server at any given time, unless otherwise provided in **Data Processing Contract**. Licensee is licensed to use the Program solely for the internal purposes of its own business. Licensee agrees that Licensee will not permit the Programs to be used or accessed either directly or indirectly by Licensee's employees or any other person or entity through a timesharing service, service bureau arrangement or otherwise, other than as expressly permitted in this License or in the companion Data Processing Services Agreement (Services Agreement), and that Licensee shall ensure that only authorized Users may use or access the Programs.

Licensee may not grant sublicenses or other rights in the Programs to others, or assign or transfer this license to any third party. Licensee may not grant, allow or provide access to the Programs to, or use of the Programs by, unauthorized third parties.

Licensee shall comply strictly with the provisions of any CSS or third party license or other agreement regarding or applicable to any third party intellectual property, including without limitation applications, operating systems, or other software of any kind, or documentation thereof, utilized by Licensee in its use of the Programs, or by CSS in the provision of any services to Licensee related to or depending on the Programs.

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Licensee agrees not remove or destroy any copyright, trademark, patent, or other proprietary designations or notices, or other proprietary or confidential legends or markings placed upon or contained within the Programs, or from any copies thereof.

2. TERM

This license shall be in effect from the date of execution of the associated CSS Data Processing Contract until termination of that Contract, or until termination of this License as specified herein, whichever is earlier, unless otherwise expressly agreed in writing by CSS.

Upon termination or expiration of this License on any basis, all rights of Licensee and obligations of CSS hereunder shall immediately terminate. Licensee shall nonetheless have a continuing obligation to maintain the confidentiality of CSS's proprietary information, to return or destroy all copies of the Programs in Licensee's possession or under its control or right of control, as required herein, to indemnify CSS as provided hereunder, and to pay any fees or costs accrued and owing hereunder or under the Services Agreement as of such termination.

3. PAYMENTS

All license fees and any first year support fees, mobilization, user, multiple-site or other fees, along with any installation and training fees, whether specified herein or in an associated contract for services by CSS, shall be paid to CSS upon mutual execution of this License Agreement or as specified in **Data Processing Contract** hereto or in such services agreement. Any other sums due hereunder shall be payable within ten (10) days of Licensee's receipt of CSS's invoice therefore. Any past due amounts shall bear interest from the date when due until paid at the highest rate allowable by law. All payments due hereunder shall be made in lawful money of the United States of America, and shall be made to CSS at its address specified above or at such address as may from time to time be designated by CSS in writing. In addition to the fees, charges, expenses and other amounts due and payable under this License Agreement, Licensee shall pay any and all local, state, federal, and other sales, use, excise, privilege or gross receipts taxes and duties, tariffs, assessments or levies, however designated, assessed or levied, resulting from this License or any activities conducted hereunder (exclusive of taxes based on CSS's net income); provided, that if Licensee claims legal exemption from any tax or taxes, such as sales tax, it shall promptly provide CSS with a copy of the applicable tax exemption certificate.

4. SECURITY AND CONFIDENTIALITY; NO REPRODUCTION; RIGHT TO INJUNCTIVE RELIEF

Licensee shall take all reasonable steps necessary to ensure that the Programs, or any portion thereof, that are stored, written or recorded on magnetic tape, disk or memory or in any other form or on any other media, are not made available, and access is not provided or permitted, by the Licensee or by any of its employees, officers, principals, agents or representatives to any organizations or individuals not licensed hereunder to make use thereof. Licensee recognizes the proprietary nature of the Programs and agrees as follows:

a. To use and access the Programs solely at the place of installation specified in **Data Processing Contract** to this License Agreement.

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c. To instruct its employees having access to the Programs not to copy or duplicate the Programs and not to provide same to any third party, and to enforce these requirements.

d. To effect security measures that are reasonably calculated to safeguard the Programs from theft or unauthorized access.

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CSS's liability for damages to Licensee, its employees, officers, elected officials or principals, agents or representatives for any cause, claim or action of any kind or character whatsoever related to this License or arising from or related to the use of the Programs by or on behalf of Licensee or access to the Programs provided or permitted by Licensee or its employees, officers, elected officials or principals, agents or representatives, and regardless of the form of action, whether in contract or in tort, including negligence, shall be strictly limited. This limitation of liability will not apply to claims for patent and copyright infringement. Notwithstanding anything herein to the contrary, in no event will CSS be liable for any lost profits, lost savings, or other actual, special, incidental or consequential damages to Licensee, or for punitive or exemplary damages, even if CSS has been made aware of the possibility of such damages, or for any claim against Licensee, its employees, officers, elected officials, agents or representatives by any other party, arising or made in connection with the delivery, installation, testing, use, performance or nonperformance of the Programs, or access to the Programs, or for any act or failure to act of CSS, arising out of, related to or in connection with the delivery, installation, testing, use, performance or nonperformance of the Programs, or access to the Programs, or CSS's performance or nonperformance under or related to this License Agreement.

6. TERMINATION

Upon termination of this License for any reason, Licensee shall promptly uninstall, delete or otherwise permanently remove all copies of the Programs from any and all computers and storage devices or media of any kind in Licensee's possession or under its control or right of control on which a copy may reside (hereinafter); and deliver to CSS all copies of the Programs including all materials related thereto that are in Licensee's possession or under its control or right of control, whether or not provided by CSS hereunder, or copied or created by Licensee or its employees, agents or representatives, in whatever form and on whatever medium made, recorded or stored, together with all portions, reproductions, and modifications thereof, pertaining to the Programs; and shall also warrant in writing to CSS that all copies thereof have been deleted from all of Licensee's equipment (or other equipment in Licensee's possession or under its control or right of control) and either destroyed or returned to CSS as required hereunder. Within ten (10) days of request by CSS, Licensee shall certify in writing to CSS that, to the best of Licensee's knowledge, the original and all copies, in whole or part, of the Programs, in Licensee's possession or under its control or right of control, including all related materials and copies, have been deleted, destroyed or returned to CSS. In addition, all documentation, listings, notes or other written material pertaining to the Programs shall be returned to CSS or deleted or destroyed and so certified in writing by Licensee.

CSS shall have the right to terminate this License Agreement, by giving written notice of such termination to Licensee, in the event that the Licensee (i) fails to pay CSS in full any sums due and payable hereunder within ten (10) days after their due date, (ii) fails to comply fully with any of the Licensee's obligations hereunder with respect to proprietary information or confidentiality, or (iii) fails to perform or comply fully with any other material term or obligation set forth in this License Agreement. CSS's right of termination shall be in addition to any other right or remedy it may have at law or in equity.

This License shall immediately and automatically terminate upon any offer or attempt of Licensee to: assign, sublicense or otherwise transfer it in whole or part, or any rights granted herein, to any third party, or to assign, condition or avoid any obligations imposed herein, without the express written consent of CSS; or upon any such assignment or transfer, condition or avoidance, or right or option thereto, of any kind, actual or constructive, whether by operation of law, lawful order or otherwise,

including without limitation appointment of a receiver or a trustee in bankruptcy or an assignment in favor of Licensee's creditors.

CSS reserves the right immediately to terminate this License if any claims for copyright or patent infringement, or infringement or misappropriation of any intellectual property rights, or for unfair competition or trade practices or other misuse, relating to the Programs or any part thereof, are asserted against CSS, any relevant CSS licensor, or Licensee or any of Licensee's employees, officers, agents or representatives. Such determination shall be in the sole discretion of CSS. Termination on this basis shall be effective on notice in writing to Licensee by CSS, stating the reason for such termination.

7. NO WARRANTY

CSS PROVIDES THE PROGRAMS TO LICENSEE AS IS. CSS MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OR FUNCTIONALITY OF THE PROGRAMS, THEIR MERCHANTABILITY, OR THEIR FITNESS FOR USE FOR ANY PARTICULAR PURPOSE. CSS DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED OR PROVIDED IN THE PROGRAMS WILL MEET THE LICENSEE'S REQUIREMENTS OR THAT THE OPERATION OF THE PROGRAMS WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT THE PROGRAMS OR THEIR OPERATIONS OR OUTPUT PRODUCTS OR FILES WILL BE FREE FROM VIRUSES, WORMS, TROJAN HORSES OR OTHER HARMFUL AGENTS. CSS DOES NOT WARRANT, AND EXPRESSLY DISCLAIMS, ANY AND ALL RESPONSIBILITY FOR THE ACCURACY OF ANY INFORMATION OR DATA PROVIDED BY LICENSEE FOR USE WITH OR BY THE PROGRAMS, OR ON WHICH THE PROGRAMS OPERATE.

8. INDEMNIFICATION

(a) Indemnification by CSS. CSS agrees to indemnify Licensee and to hold it harmless from any damages finally awarded as result of any claim of infringement of a United States patent or copyright asserted against Licensee by reason of Licensee's authorized use of the Programs, consistent with the terms of this License Agreement, as delivered by CSS or access to the Programs as provided by CSS; provided, that CSS is given prompt notice by Licensee in writing of any such claim and the right to defend or settle, at CSS's expense and in its sole discretion, any such claims; and further provided, that Licensee fully cooperates with CSS in connection with the defense or settlement of such claims. CSS shall not be obligated to defend such claims but may do so at its sole election. This indemnification provision shall not apply with regard to any such claim of infringement based on a use of or access to the Program(s) by Licensee that is not strictly consistent with the provisions of this License Agreement.

(b) **INDEMNIFICATION BY LICENSEE.** TO THE EXTENT PERMITTED BY LAW, LICENSEE AGREES TO INDEMNIFY AND HOLD HARMLESS CSS, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND REPRESENTATIVES, AND ITS THIRD PARTY LICENSORS, IF ANY, WHICH PROVIDE OR LICENSE TO CSS ANY SOFTWARE OR OTHER PRODUCTS OR MATERIALS USED BY CSS IN THE PROVISION OF THE SERVICES CALLED FOR IN THE ASSOCIATED DATA PROCESSING SERVICES AGREEMENT, OR LICENSED HEREUNDER BY CSS, FOR ANY AND ALL CLAIMS OF

INTELLECTUAL PROPERTY INFRINGEMENT, INCLUDING BUT NOT LIMITED TO COPYRIGHT, TRADEMARK, OR PATENT INFRINGEMENT, OR FOR UNFAIR COMPETITION, OR FOR MISAPPROPRIATION OR UNAUTHORIZED DISCLOSURE OR USE OF TRADE SECRETS OR OTHER PROPRIETARY OR CONFIDENTIAL INFORMATION, WHERE SUCH CLAIM, IN WHOLE OR PART, ARISES FROM OR IS ASSERTED TO BE A RESULT OF THE ACTS OR OMISSIONS OF LICENSEE, ITS OFFICERS, ADMINISTRATORS, MANAGERS, ELECTED OFFICIALS, EMPLOYEES, AGENTS OR OTHER REPRESENTATIVES, AND WHERE SUCH ALLEGED ACTS OR OMISSIONS ARE NOT IN STRICT COMPLIANCE WITH, OR ARE INCONSISTENT WITH, THE TERMS AND CONDITIONS OF THIS LICENSE AGREEMENT, OR WITH THE TERMS AND CONDITIONS OF ANY CSS OR THIRD PARTY LICENSE OR OTHER AGREEMENT APPLICABLE TO INTELLECTUAL PROPERTY UTILIZED BY LICENSEE IN ITS USE OF OR ACCESS TO THE PROGRAMS, OR UTILIZED BY CSS IN THE PROVISION OF SERVICES TO LICENSEE RELATED TO OR DEPENDENT ON THE PROGRAMS. FOR THE PURPOSES OF THIS PROVISION, INTELLECTUAL PROPERTY SHALL INCLUDE ANY AND ALL INTELLECTUAL PROPERTY, INCLUDING WITHOUT LIMITATION DATA BASES, APPLICATIONS, OPERATING SYSTEMS OR OTHER SOFTWARE OF ANY KIND, AND ANY DOCUMENTATION THEREOF.

9. REMEDIES

Licensee acknowledges and agrees that because of the unique nature of the Programs irreparable harm to CSS will be caused by a breach by Licensee of its obligations under this License Agreement, that monetary damages will be inadequate to compensate CSS for such harm, and that injunctive relief directed against Licensee and in favor of CSS is an appropriate remedy to enforce the provisions of this License. Such injunctive or other equitable relief shall be cumulative of and shall not preclude or waive any other relief or remedies at law or in equity to which CSS may be entitled.

LICENSEE'S EXCLUSIVE REMEDY HEREUNDER IS TERMINATION OF THIS LICENSE AGREEMENT.

10. MISCELLANEOUS

a.   **Assignment.** Licensee's rights to use the Programs granted in this License may not be assigned, sublicensed, or transferred voluntarily by Licensee, or by operation of law or otherwise, without CSS's prior written consent and the execution of a new License Agreement.

b.   **Notices.** Any notice to be delivered pursuant to this License Agreement shall be deemed delivered upon service, if served personally, or three (3) days after deposit in the United States mail if mailed by first class mail, postage prepaid, registered or certified, and addressed to the person designated for receipt of notice hereunder, at the address set forth on the first page of this License Agreement or at such other address as shall be specified from time to time in writing by the receiving party.

c.   **Severability.** In the event that any provision of this License Agreement is determined to be invalid or unenforceable, the remainder of this License Agreement shall be valid and enforceable to the maximum extent permitted by applicable law.

d. **Exclusive Agreement; Modification.** This License Agreement constitutes the complete and exclusive statement of the agreement of the parties relative to the licensing of use of the Programs, and supersedes all oral or written proposals or understandings concerning such subject matter. This License Agreement may be modified only pursuant to a writing executed by both parties. Should Licensee elect to issue a purchase order or any similar document for its own internal purposes, this License Agreement shall control any conflict between the terms and conditions of the said order form.

e. **Open records requests.** Should Licensee receive a request under the federal Freedom of Information Act ("FOIA") or any local or state open records act or regulation (collectively, "Open Records Acts") for disclosure, access to, or copying of any proprietary information provided by or belonging to CSS or any of its licensors, including but not limited to disclosure of, access to, or a copy of the Programs or any part thereof, Licensee shall immediately notify CSS, including notice in writing and a copy of the said request, so that CSS may determine what steps it may wish to take to protect such information. Time is of the essence in Licensee providing notice to CSS. If the applicable Open Records Act requires a governmental entity or other party contesting whether requested records are required to be disclosed under the Act to do or take any action within some specified time in order to initiate a determination by a judicial or other authority whether disclosure is required, client is required to take such actions as may be necessary or appropriate timely to initiate such process and avoid waiver of its or of CSS' rights to obtain such a determination, and to avoid by delay in informing CSS or in initiating such process materially prejudicing the practical ability of CSS to initiate such process and satisfy applicable requirements to obtain such a determination.

In the event that disclosure is ultimately required, Licensee shall provide to the recipient, along with access to or any copies of such disclosed materials, a notice that the materials are owned by or licensed to CSS, are protected under the federal Copyright Act and other laws, and that recipient is not by virtue of disclosure under the applicable Open Records Act thereby authorized to use, copy, or disseminate the materials without the express written consent of CSS; and that any unauthorized use, copying or dissemination may constitute a violation of federal copyright or other laws, and could therefore subject the recipient or others to civil or criminal penalties.

FAILURE OF LICENSEE TO COMPLY FULLY WITH THE OBLIGATIONS OF THIS SUBSECTION (e) SHALL BE A MATERIAL BREACH OF THIS LICENSE AGREEMENT AND SHALL CONSTITUTE GROUNDS FOR THE IMMEDIATE TERMINATION OF THIS LICENSE AGREEMENT BY CSS, WITHOUT PENALTY THEREFOR OR FURTHER OBLIGATION TO LICENSEE. Such termination shall not relieve Licensee from the obligation to pay any outstanding fees or costs hereunder, or other obligations hereunder that survive termination.

f. **Costs; Attorneys Fees.** In the event any action or claim brought to interpret, apply or enforce this License Agreement, the prevailing party shall be entitled to recover its costs of such action, including, without limitation, attorneys fees, expert fees, and court costs. Neither party may be compelled to arbitrate any claim arising under or related to this License Agreement without its written consent.

g. **Survivability.** The obligations of Licensee, for example, regarding protection and confidentiality of the Programs, consent to injunction, limitation of liability, remedies, cooperation, governing law and forum selection, payment of accrued fees and costs, and the parties obligations of indemnification and hold harmless set forth herein, shall survive any termination of this License Agreement.

h. **Governing Law.** This License Agreement shall be governed by and enforced in accordance with the laws of the State of California, without giving effect to its choice of law provisions.

i. **No Waiver of Rights.** No term or provision of this Agreement shall be deemed to be waived and no consent to any breach or default shall be deemed unless such waiver or consent be in writing signed by the party against which such waiver or consent is asserted; the terms of this Agreement shall not be deemed to be amended by any such waiver or consent unless in a writing expressly stating such amendment; and any waiver by either party, whether express or implied, shall not imply a consent or waiver of any term or provision on any other occasion, or any consent to any different breach or default.

k. **Construction.** Descriptive headings or captions in this License Agreement are for convenience only and shall not affect the construction or application of this License Agreement. Words having established technical or trade meanings in the industry shall be so construed. Lists of items shall not be exclusive unless expressly so stated, but shall include other items, whether similar or dissimilar to those explicitly listed, as the context reasonably requires. No rule of construction requiring interpretation against the drafting party shall be applied or given effect. Words of any gender used herein shall be deemed to include words of any other gender, and use of the singular or the plural herein shall include the other, unless context requires otherwise. In the event of conflict between words and numbers, the words shall control.

l. **Cooperation.** Licensee shall cooperate fully with CSS in the maintenance and protection by CSS of any intellectual property ownership or other rights or interest of CSS in the Programs or other intellectual property or interests therein that are the subject matter of this License.

Initials: JVR

APPROVALS

IN WITNESS WHEREOF, this Nonexclusive License Agreement is executed to be effective as of the _____ day
of _____, 20____.

Licensee	**Corrections Software Solutions**

BY: _____   BY: _____

NAME: R. Ted Baraan   NAME: James Redus

TITLE: Chief Probation Officer, San Benito   TITLE: President
        County

DATE: _____   DATE: 8-17-16 _____

Initials: _____

ATTACHMENT E
SAN BENITO COUNTY
BUSINESS ASSOCIATE ADDENDUM

(a) Contractor shall comply with, and assist the County in complying with, the privacy requirements of the Health Insurance Portability and Accountability Act (including but not limited to 42 U.S.C. 1320d et seq.; "HIPAA") and its implementing regulations (including but not limited to 45 CFR Parts 142, 160, 162 and 164), hereinafter collectively referred to as the "Privacy Rule." Terms used but not otherwise defined in this Addendum shall have the same meaning as those terms are used in the Privacy Rule.

(b) Except as otherwise limited in this Addendum, Contractor may use or disclose Protected Health Information to perform functions, activities, or services for or on behalf of the County as specified in this Addendum, provided that such use or disclosure would not violate the Privacy Rule with which the County complies.

(c) Contractor shall not use or further disclose Protected Health Information other than as permitted or required by this Addendum, or as required by law.

(d) Contractor shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Addendum.

(e) Contractor shall report to the County any use or disclosure of the Protected Health Information not provided for by this Addendum.

(f) Contractor shall mitigate, to the extent practicable, any harmful effect that is known to Contractor as a result of a use or disclosure of Protected Health Information by Contractor which is in violation of the requirements of this Agreement.

(g) Contractor shall ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, created, or received by Contractor on behalf of the County, agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.

(h) Contractor shall provide access, at the request of the County, and in the time and manner designated by the County, to Protected Health Information in a Designated Record Set; this Protected Health Information will be released to the County or, as directed by the County, to an Individual, in order to meet the requirements under 45 CFR Section 164.524.

(i) Contractor shall make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs, pursuant to 45 CFR Section 164.526, at the request of the County or an Individual, and in the time and manner designated by the County.

(j) Contractor shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for the County, to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR Section 164.528.

(k)   Contractor shall provide to the County or an Individual, in the time and manner designated by the County, information collected in accordance with subsection (j), to permit the County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR Section 164.528.

(l)   Contractor shall make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of the County, available to the County; or at the request of the County, to the Secretary of the United States Department of Health and Human Services ("Secretary"), in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining the County's compliance with the Privacy Rule.

(m)   A breach by Contractor of any provision of this Addendum, as determined by County, shall constitute a material breach of the contract and shall provide grounds for immediate termination of the Contract by the County.

     (1) Except as provided in subparagraph (2) of this section, upon termination of this Addendum for any reason, Contractor shall return or destroy all Protected Health Information received from the County, or created or received by Contractor on behalf of the County. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Contractor. Contractor, its agents and subcontractors shall retain no copies of the Protected Health Information.

     (2) In the event that Contractor determines that returning or destroying the Protected Health Information is infeasible, Contractor shall provide to the 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, Contractor shall extend the protections of this Addendum 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 Contractor, or any of its agents or subcontractors, maintains such Protected Health Information.

(n)   The Parties agree to take action to amend this Agreement from time to time as is necessary for the County to comply with the requirements for the Privacy Rule or any other requirements of HIPAA and its implementing regulations.