

AGREEMENT FOR TECHNICAL SERVICES

THIS AGREEMENT ("Agreement") is effective as of this 1st day of July, 2020, by and between the County of Tulare, ("County,") a County of the State of California, and AutoMon, LLC ("Vendor,") a Delaware limited liability company with principal offices at 6621 N Scottsdale Road, Scottsdale, Arizona 85250."

ARTICLE 1. SCOPE OF WORK

Vendor agrees to perform the Services and/or supply the goods identified in Schedule A, (the "Services") which is attached to, and is part of this Agreement, in accordance with the terms and conditions of this Agreement. It is specifically agreed that the County will not compensate Vendor for any Services outside those specifically identified in Schedule A, without prior authorization, evidenced by a written Change Order or Addendum to this Agreement executed by the authorized person from the County.

ARTICLE 2. TERM OF AGREEMENT

The initial term of the Agreement will run from the effective date of this Agreement until June 30, 2023, as reflected in Schedule B, Fees, Charges and Expenses. This Agreement and the Services set forth on Schedule B, will be automatically renewed at the end of the initial term and each additional term for one calendar year, unless the County or Vendor gives the other at least 60 days written notice of termination. With such notice, the Services may be terminated in whole or in part.

ARTICLE 3. COMPENSATION

For satisfactory performance of the Services, the County agrees to compensate Vendor in accordance with the fees, charges and expenses as stated in Schedule B, which is attached to and is part of this Agreement. Vendor shall submit to the County invoices for all Maintenance, Support and Subscriptions prior to the start of the term covered, and such invoices shall be due and payable in full Net 30. Invoices for project work shall be billed monthly reflecting the services rendered during the prior month; such invoices shall be due Net 30 from date of the invoice. Vendor shall be prepared in such form and supported by such documents as the County may reasonably require.

Unless otherwise stated, Vendor fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "**Taxes**"). County is responsible for paying all Taxes associated with County purchases hereunder. If Vendor have the legal obligation to pay or collect Taxes for which County is responsible under this paragraph, the appropriate amount shall be invoiced to and paid by

County, unless County provides Vendor with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Vendor is solely responsible for taxes assessable against Vendor based on Vendor's income, property and employees. If in the future, Vendor is required to collect such taxes from County by a governmental entity for any period covered by this Agreement, County agrees to promptly provide evidence of having paid the applicable Taxes, or remit such taxes to Vendor to remit to such government entity.

ARTICLE 4. ANTI-CORRUPTION

The County, and its employees, officials, agents or representatives, have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Vendors employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If County learns of any violation of the above restriction, the County will use reasonable efforts to promptly notify Vendor's Legal Department.

ARTICLE 5. INDEPENDENT CONTRACTOR

In performing the Services and incurring expenses under this Agreement, Vendor shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of the County. As an independent contractor, Vendor shall be solely responsible for determining the means and methods of performing the Services and/or supplying the goods and shall have complete charge and responsibility for Vendor's personnel engaged in the performance of the same.

In accordance with such status as independent contractor, Vendor covenants and agrees that neither it nor its employees or agents will hold themselves out as, nor claim to be officers or employees of the County, or of any department, agency or unit thereof by reason hereof, and that they will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County including, but not limited to, disability insurance contributions, Worker's Compensation coverage, health coverage, Unemployment Insurance Benefits, Social Security coverage or employee retirement membership or credit.

ARTICLE 6. ASSIGNMENT AND SUBCONTRACTING

Vendor shall not assign any of its rights, interest or obligations under this Agreement, or subcontract any of the Services to be performed by it under this Agreement, without the prior express written consent of the County. Any subcontract or assignment properly consented to by the County shall be subject to all of the terms and conditions of this Agreement. Failure of Vendor to obtain any required consent to any assignment, shall be grounds for termination, at the option of the County and if so terminated, the County shall thereupon be relieved and discharged from any further liability and obligation to Vendor, its assignees or transferees, and all monies that are or which may become due under this Agreement shall be forfeited to the County except to pay Vendor for past Services.

The provisions of this **Article** shall not hinder, prevent, or affect any assignment by Vendor for the benefit of its creditors.

This agreement may be assigned by the County to any public agency, municipality or instrumentality having authority to accept such assignment, with 30 days prior written notice to Vendor.

ARTICLE 7. BOOKS AND RECORDS

Vendor agrees to maintain accurate books, records, documents and other evidence and accounting procedures and practices which sufficiently and properly reflect all costs expended in the performance of this Agreement. Vendor agrees to retain all books, records and other documents relevant to this Agreement for six (6) years after the final payment or termination of this Agreement, whichever later occurs. County, or any State and/or Federal auditors, and any other persons duly authorized by the County, shall have full access and the right to examine any of said materials during said period.

ARTICLE 8. INSURANCE

Before approval of this Agreement by County, Vendor must file with the Clerk of the Board of Supervisors evidence of insurance as set forth in the attached Schedule C, which outlines the minimum scope, specifications, and limits of insurance required under this Agreement. Additional insured endorsements required as outlined in Schedule C cannot be used to reduce limits available to County as an additional insured from Vendor's full policy limits. Insurance policies cannot be used to limit liability or to limit the indemnification provisions and requirements of this Agreement or act in any way to reduce the policy coverage and limits available from the insurer(s). If Vendor fails to maintain or renew coverage, or to provide evidence of renewal, then County may consider that failure a material breach of this Agreement.

ARTICLE 9. INDEMNIFICATION

Vendor shall hold harmless, defend and indemnify County, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including County property, arising from, or in connection with, the performance by Vendor or its agents, officers and employees under this Agreement. This indemnification specifically includes any claims that may be made against County by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against County alleging civil rights violations by Vendor under Government Code sections 12920 et seq. (California Fair Employment and Housing Act), and any fines or penalties imposed on County for Vendor's failure to provide form DE-542, when applicable. This indemnification

obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

ARTICLE 10. TERMINATION

The County may, for its own convenience or in the event funds were not appropriated by the County, by written notice to Vendor not less than 60 days prior to the expiration of any Term, terminate this Agreement in whole or in part. Similarly, County may terminate this agreement upon the failure of Vendor to comply with any of the material terms or conditions of this agreement, and such failure shall not be remedied within a commercially reasonable time following written notice to Vendor. In addition, at the County option, County may terminate this Agreement upon the Vendor being declared by a court of competent jurisdiction insolvent or bankrupt.

Vendor shall not be relieved of liability to the County for damages sustained by the County by virtue of Vendor's breach of the Agreement or failure to perform in accordance with applicable standards, and the County may withhold payments to Vendor for the purposes of set-off until such time as the exact amount of damages due to the County from Vendor is determined.

The rights and remedies of the County provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

ARTICLE 11. NO ARBITRATION

Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to arbitration unless specifically agreed thereto in writing by the County.

ARTICLE 12. PROTECTION OF DATA, OWNERSHIP

Subject to the limited rights granted by County to Vendor in this Agreement, Vendor acquires no right, title or interest from County under this Agreement in or to the any data, documents or other information entered into the Services by County employees, officials, contractors, or volunteers ("County's Data"). Regarding any County Data within our control, and specifically excluding all data that resides on County premises, Vendor shall maintain, or cause to be maintained, appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of the County's Data that operate on the servers maintained by us or our hosting vendor. Vendor shall not (i) disclose the County's Data except as compelled by law or as expressly permitted in writing by the County, or (ii) modify or access the County's Data except to provide the Services set forth in this Agreement (i.e. to prevent or address service or technical problems, or at the County's request in connection with customer support matters.)

ARTICLE 13. CONFIDENTIALITY

Definition of Confidential Information. As used herein, "Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. The County's Confidential Information shall include County Data; Vendor's Confidential Information shall include the Services; and Confidential Information of each party shall include business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than County's Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

The Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

ARTICLE 14. GOVERNING LAW

This Agreement shall be governed by the laws of the state where the County is located. Vendor shall render all Services under this Agreement in accordance with applicable provisions of all federal, state and local laws, rules and regulations as are in effect at the time such Services are rendered.

ARTICLE 15. CURRENT OR FORMER COUNTY EMPLOYEES

Vendor represents and warrants that it shall not retain the Services of any County employee or former County employee in connection with this Agreement or any other agreement that said Vendor has or may have with the County without the express written permission of the County. This limitation period covers the preceding three (3) years or longer if the County employee or former County employee has or may have an actual or perceived conflict of interests due to their position with the County.

For a breach or violation of such representations or warranties, the County shall have the right to terminate this Agreement for cause.



ARTICLE 16. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. Unless otherwise specifically provided for therein, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in any Addendum or Change Order.

ARTICLE 17. ENTIRE AGREEMENT

The rights and obligation of the parties and their respective agents, successors and assignees shall be subject to and governed by this Agreement, including Schedules A, B, and C, which supersede any other understandings or writings between or among the parties.

IN WITNESS THEREOF, the parties hereto have executed this Agreement as of the date set forth above.

COUNTY OF TULARE	AUTOMON LLC
	
Chairman, Board of Supervisors	By: Tom Jones Title: President and CEO
	
	By: Penny Alvarez Title: Controller

ATTEST: JASON T. BRITT
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By: Deputy Clerk

[Corporations Code section 313 requires that contracts with a corporation be signed by both (1) the chairman of the Board of Directors, the president or any vice-president (or another officer having general, operational responsibilities), and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer (or another officer having recordkeeping or financial responsibilities), unless the contract is accompanied by a certified copy of the corporation's Board of Directors' resolution authorizing the execution of the contract.]

Approved as to Form
County Counsel

DocuSigned by:

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By: Deputy Clerk
Matter No. 2020549

AutoMon and Tulare County

SCHEDULE A

SCOPE OF SERVICES

Caseload Explorer Support and Maintenance

Vendor's Software Maintenance Services Customer Handbook Version 6.2 Effective May 29, 2019 consisting of 9 pages is hereby incorporated by reference.

Ce Connect Products

Vendor will provide the County's Probation Department with a use license for the services reflected on Schedule B to the Technical Services Agreement for the period of time set forth in Schedule B. The Ce Connect Services shall include all support, maintenance and updates as further detailed in the Software Maintenance Services Customer Handbook Version 6.2 Effective May 29, 2019.

Vendor and County agree that the Master Subscription Agreement set forth below are a part of this Schedule A. The terms and conditions of the Technical Services Agreement and the Master Subscription Agreement shall be binding on Vendor and County. In the event of a specific conflict between the terms and conditions set forth in the Technical Services Agreement and Master Subscription Agreement, the terms and conditions of Technical Services Agreement shall prevail.

Project Work

All Addendum, Order Form or Change Orders shall be in written and signed by authorized personnel from both parties. The Addendum, Order Form or Change Order will designate whether the payment to Vendor is based on time and materials, milestones or is payable upon completion. The hourly charge for all time and materials work is set forth in Schedule B. Further, the scope of work to be performed by Vendor will be set forth in the Addendum, Order Form, Change Order or an attachment thereto. Any changes to the Scope of Work from what is set forth in the Addendum, Order Form, Change Order and any attachments thereto, may necessitate a change in the costs and expenses paid by the County, and shall therefore be in writing and otherwise conform to the process for authorization for modifications set forth in the Technical Services Agreement.

AutoMon, LLC

Master Subscription Agreement (Ce Connect Products)

EFFECTIVE DATE: This Agreement was last updated on November 6, 2019. It is effective between You and Us as of the date You accept this Agreement by signing the Order Form.

THIS MASTER SUBSCRIPTION AGREEMENT ("AGREEMENT") GOVERNS YOUR ACQUISITION AND USE OF OUR SERVICES.

BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

You may not access the Services if You are Our direct competitor of Ours, except with Our prior written consent. In addition, You may not access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

1. DEFINITIONS

"**Affiliate**" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"**AutoMon Technology**" means all of Our proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, APIs, know-how, techniques, designs and other tangible or intangible technical material or information) made available to You by Us in providing the Services;

"**Content**" means the audio and visual information, documents, software, products and services contained or made available to You in the course of using the Services; "Content" exclude Non-AutoMon Applications and Content.

"**Malicious Code**" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

"Non-AutoMon Applications and Content" means online and offline software products, services and content that are provided by entities or individuals other than Us and are clearly identified as such, and that interoperate with the Services with Our written consent.

"Order Form" means the documents for placing orders hereunder, which are entered into between You and Us from time to time. Order Form(s) shall be deemed incorporated herein by reference.

"Purchased Services" means Services that You purchase under an Order Form and further described on Exhibit B hereto.

"Services" means the products and services offered by Us and made available to You via the customer login link at <https://www.automonapps.com> and/or other web pages designated by Us, as described in the User Guide. "Services" exclude Non-AutoMon Applications and Content.

"User Guide" means the online user guide for the Services, accessible via login at www.ce-connect.com, as updated from time to time.

"Users" means individuals who are authorized by You to use the Services, for whom subscriptions to a Services have been ordered, and who have been supplied user identifications and passwords by You (or by Us at Your request). Users include Your employees, consultants, contractors and agents, provided however, Our competitors or vendors of complimentary products are not Users and may not access or view the Services without our express written consent.

"We," "Us" or "Our" means AutoMon, LLC and its Affiliates.

"You" or "Your" means the company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity.

"Your Data" means all electronic data or information submitted by You to the Purchased Services.

2. SERVICES

- 2.1. Provision of Services.** We shall make the Services available to You pursuant to this Agreement and the relevant Order Forms during a subscription term. You agree that Your purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding future functionality or features.

- 2.2. User Subscriptions.** Unless otherwise specified in the applicable Order Form, (i) Services are purchased as User subscriptions and may be accessed by no more than the specified number of Users as described in the Order Form(s), (ii) additional User subscriptions may be added during the applicable subscription term at the same pricing as that for the pre-existing subscriptions thereunder, prorated for the remainder of the subscription term in effect at the time the additional User subscriptions are added, and (iii) the added User subscriptions shall terminate on the same date as the pre-existing subscriptions. User subscriptions are for designated Users only and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Services.

3. USE OF THE SERVICES

- 3.1. License Grant.** We hereby grant You a non-exclusive, non-transferable, worldwide right to use the Services as described on the relevant Order Form(s), solely for your own internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to You are reserved by Us (and Our licensors, where applicable.)

- 3.2. Restrictions.** You shall not and shall not permit third parties, without our express written consent, (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Services or the Content in any way for any reason; (ii) modify or make derivative works based upon the Services, AutoMon Technology or the Content; (iii) create "links" or integrations to the Services, (iv) "frame" or "mirror" any Services or Content or on any other server or wireless or Internet-based device; or (v) reverse engineer or access the Services in order to (a) build a complimentary or competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Services, or (c) copy any ideas, features, functions or graphics of the Services. User licenses cannot be shared or used by more than one individual User but may be reassigned from time to time to new Users who are replacing former Users who have terminated employment or otherwise changed job status or function and no longer use the Services.

3.3. Responsibilities of the Parties.

3.3.1. Our Responsibilities. We shall: (i) provide Our basic support for the Services to You, (ii) use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for (a) planned downtime of which We shall give You notice, or (b) any unavailability of the Services caused by circumstances beyond Our reasonable control, and (iii) provide the Services only in accordance with applicable laws and government regulations. The Services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. We are not responsible for any delays, delivery failures, or other damages resulting from such problems.

3.3.2. Our Protection of Your Data. We shall maintain, or cause to be maintained, commercially reasonable and appropriate administrative, physical, and technical

safeguards for protection of the security, confidentiality, and integrity of Your Data stored with Our hosting vendor. We shall not (a) modify Your Data, (b) disclose, provide, rent, or sell Your Data except as compelled by law in accordance with Section 7.3 (Compelled Disclosure) or as expressly permitted in writing by You, or (c) access Your Data except to provide the Services and prevent or address service or technical problems, or at Your request in connection with customer support matters.

3.3.3. Data Storage. We will determine the locations of the data centers in which Your Data will be stored and accessible by You and Your Users. For federal, state, and local governmental entities, We will ensure that all Your Data is stored within the United States including any backup data, replication sites, and disaster recovery sites. We will not transfer Your Data to any third parties without Your express written directive to transfer such Data, and Your complete waiver and release from all liability which may result from or be connected with the transfer or use of Your Data by such third party.

3.3.4. Your Responsibilities. You shall (i) be responsible for Users' compliance with this Agreement, (ii) be responsible for the accuracy, quality and legality of Your Data and of the means by which You acquired Your Data, (iii) if applicable to You, maintain processes, controls and procedures to ensure You and Your Users compliance with the current version of the CJIS Security Policy, HIPAA regulations and similar statutory and regulatory requirements, (iv) prevent unauthorized access to or use of the Services, and notify Us promptly of any such unauthorized access or use of any password or account or any other breach of security, (v) use the Services only in accordance with the User Guide and applicable laws and government regulations, (vi) provide all hardware, systems software and third party software for Services that run on Your servers, and (vii) provide desktop computers and related software to operate the Services. You shall not (a) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks. You are responsible for all activities undertaken by You, or Your Users which result in unauthorized access to Your data. You are solely responsible for any and all costs, expenses, and third party claims or losses related to a data breach, data loss, release of Your Data, damage to Your Data or similar outcome that results from (1) misuse or unauthorized disclosure of Your Data by You or Your Users, (2) any unauthorized access to the Services via Your Users' logons or passwords caused by the negligence of You or Your Users, (3) any loss of or misuse of an electronic device belonging to You or Your Users (e.g. phone, laptop, tablet, computer), (4) an unauthorized disclosure of Your Data resulting from Your or Your Users loss or negligent handling of Your Data in electronic or paper form, or (5) ransomware, phishing scam or similar malicious activity emanating from You or any of Your Users, or (6) Your or Your Users' failure to comply with the provisions of any privacy statutes or regulations that apply to You or Your Data (e.g. CJIS, HIPAA and similar), For clarity, this provision is not an obligation for You to indemnify to Us, but rather, is an allocation of risk and responsibility for any resulting costs and expenses associated with the listed actions.

- 3.4. Storage Limitations.** If You are storing photographic, video or audio materials in the Services that are not directly related to Your primary business and operations, We reserve the right to limit the type and amount of such digital information to 10 MB per User unless You negotiate an increase to Your Subscription Fee with Us. There is no limit on the amount of data or documents You may store in the Service directly related to Your business and operations.

4. NON-AUTOMON APPLICATIONS AND CONTENT

- 4.1. Acquisition of Non-AutoMon Applications and Content.** We or third parties may from time to time make available to You third-party products or services, including but not limited to Non-AutoMon Applications and Content, training and other consulting services. Any acquisition by You of such Non-AutoMon Applications or Content, and any exchange of data between You and any Non-AutoMon provider, is solely between You and the applicable Non-AutoMon provider of such applications or content. We do not warrant or support Non-AutoMon Applications or Content, whether or not they are designated by Us as “certified” or otherwise, except as explicitly specified in an Order Form. Subject to Section 4.2 (Integration with Non-AutoMon Applications and Content), no purchase of Non-AutoMon Applications or Content is required to use the Services except a supported computing device, operating system, compliant web browser and Internet connection.
- 4.2. Integration with Non-AutoMon Applications and Content.** The Services may contain features designed to interoperate with Non-AutoMon Applications and Content (e.g., JSORRAT-II, Virginia Pretrial Risk or Static 99 and similar assessment instruments). To use such features, You may be required to obtain access to such Non-AutoMon Applications or Content from their providers. If the provider of any such Non-AutoMon Applications or Content ceases to make the Non-AutoMon Applications or Content available for interoperation with the corresponding Service on reasonable terms, We may cease providing such Service features without entitling You to any refund, credit, or other compensation.

5. FEES AND PAYMENT FOR SERVICES

- 5.1. Fees.** You shall pay all fees specified in all Order Forms hereunder. Except as otherwise specified herein or in an Order Form, (i) fees are based on services purchased and not actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) the number of User subscriptions purchased cannot be decreased during the relevant subscription term stated on the Order Form. User subscription fees are based on annual periods that begin on the subscription start date and end twelve calendar months later. The number of subscriptions purchased may be increased during the relevant annual period and fees payable will be prorated based on the remaining time before the expiration of the then current term.
- 5.2. Invoicing and Payment.** You will provide Us with a valid purchase order or alternative document You need and which is reasonably acceptable to Us. We will invoice You in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced

charges are due net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information.

- 5.3. Overdue Charges.** If any charges are not received from You by the due date, then at Our discretion, such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid. Notwithstanding the previous sentence, if You are a government entity and are prohibited or limited by law from paying interest or penalties for late payment, this section shall not apply to You.
- 5.4. Suspension of Service and Acceleration.** If any amount owing by You under this or any other agreement for Our services is 45 or more days overdue, We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Our services to You until such amounts are paid in full. We will give You at least seven (7) days' prior notice that Your account is overdue, in accordance with Section 12.2 (Manner of Giving Notice), before suspending services to You.
- 5.5. Payment Disputes.** We shall not exercise Our rights under Section 5.3 (Overdue Charges) or 5.4 (Suspension of Service and Acceleration) if You are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute.
- 5.6. Taxes.** Unless otherwise stated on the Order Form, Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "Taxes"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this paragraph, the appropriate amount shall be invoiced to and paid by You, unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against us based on Our income, property and employees. If in the future, We are required to collect such taxes from You by a governmental entity for any period covered by this Agreement, You agree to promptly provide evidence of having paid the applicable Taxes, or remit such taxes to Us to remit to such government entity. Your failure to comply with this section shall be a material breach of this Agreement, entitle Us to exercise the rights set forth in Sections 5.3 and 5.4, and assess reasonable costs and attorney's fees incurred in connection with our effort to collect such Taxes from You.

6. PROPRIETARY RIGHTS

- 6.1. Reservation of Rights in Services.** We alone (and Our licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, to the Services, AutoMon Technology and Content. This Agreement is not a sale and does not convey to You any rights of ownership in or related to the Services, Content, AutoMon Technology or the Intellectual Property

Rights owned by Us (or our licensors, where applicable.) Our name, Our logo, and the product names associated with the Services are trademarks of Ours, and no right or license is granted to You to use them, except in training materials prepared by You for Your internal use.

- 6.2. **Your Data.** Subject to the limited rights granted by You hereunder, We acquire no right, title or interest from You under this Agreement in or to Your Data, including any intellectual property rights therein.
- 6.3. **Suggestions.** We shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by You, or Your Users, relating to the operation of the Services, AutoMon Technology and the Content.

7. CONFIDENTIALITY

- 7.1. **Definition of Confidential Information.** As used herein, "**Confidential Information**" means all confidential information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Your Data; Our Confidential Information shall include the Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Your Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.
- 7.2. **Protection of Confidential Information.** The Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.
- 7.3. **Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving

Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

8. WARRANTIES AND DISCLAIMERS

- 8.1. Our Warranties.** We warrant that (i) We have validly entered into this Agreement and have the legal power to do so, (ii) the Services shall perform materially in accordance with the current User Guide, (iii) subject to Section 4.2 (Integration with Non-AutoMon Applications and Content), the functionality of the Services will not be materially decreased during a subscription term, and (iv) We will not transmit Malicious Code to You, provided it is not a breach of this subpart (iv) if You or a User uploads a file containing Malicious Code into the Services and later downloads that file containing Malicious Code. For any breach of a warranty above, Your exclusive remedy shall be as provided in Section 11.4 (Termination for Cause).
- 8.2. Your Warranties.** You warrant that You have validly entered into this Agreement and have the legal power to do so.
- 8.3. Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

9. INDEMNIFICATION

- 9.1. Indemnification by Us.** We shall defend You against any claim, demand, suit, or proceeding made or brought against You by a third party alleging that the use of the Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party (a "**Claim Against You**"), and shall indemnify You for any related damages, attorney fees and costs finally awarded against You as a result of, and for amounts paid by You under a court-approved settlement of, a Claim Against You; provided that You (a) promptly give Us written notice of the Claim Against You; (b) give Us sole control of the defense and settlement of the Claim Against You (provided that We may not settle any Claim Against You unless the settlement unconditionally releases You of all liability); and (c) provide to Us all reasonable assistance, at Our expense. In the event of a Claim Against You, or if We reasonably believe the Services may infringe or misappropriate, We may in Our discretion and at no cost to You (i) modify the Services so that they no longer infringe or misappropriate, without breaching Our warranties under "Our Warranties" above, (ii) obtain a license for Your continued use of the Services in accordance with this Agreement, or (iii) terminate Your User subscriptions for such Services upon 30 days' written notice and refund to You any prepaid fees covering the remainder of the term of such User subscriptions after the effective date of termination.

- 9.2. Exclusions.** We will not be liable under Section 9.1 for any claims based on the following: Your modification of the Services, AutoMon Technology or Content other than as contemplated by this Agreement; Use of the Services in a manner other than as contemplated in this Agreement; Claims arising from the use of old versions of Services after receipt of modified or updated versions; Claims arising from the use of Your third-party applications or data; and Losses attributable to Your acts or omissions and of Your officers, employees or agents.
- 9.3. Exclusive Remedy.** This Section 9 (Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section.

10. LIMITATION OF LIABILITY

- 10.1. Limitation of Liability.** NEITHER PARTY'S LIABILITY WITH RESPECT TO ANY SINGLE INCIDENT ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) SHALL EXCEED THE LESSER OF \$500,000 OR THE AMOUNT PAID BY YOU HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT.THE FOREGOING SHALL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER SECTION 6 (FEES AND PAYMENT FOR PURCHASED SERVICES).
- 10.2. Exclusion of Consequential and Related Damages.** IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.
- 10.3. Exceptions.** The limitations and exclusions of this Section 10 shall not be construed to apply to or limit Our data security obligations under Paragraph 3.3, Our confidentiality obligations under Paragraph 7.2, or Our infringement indemnification obligations under Paragraph 9.1

11. TERM AND TERMINATION

- 11.1. Term of Agreement.** This Agreement commences on the date You accept it and continues until all User subscriptions granted in accordance with this Agreement have expired or been terminated. If You elect to use the Services for a free trial period and do not purchase a subscription before the end of that period, this Agreement will terminate at the end of the free trial period.

- 11.2. Term of User Subscriptions, Pricing on Renewal.** User subscriptions purchased by You commence on the start date specified in the applicable Order Form and continue for the subscription term specified therein. Except as otherwise specified in the applicable Order Form, all User subscriptions shall automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 60 days before the end of the relevant subscription term. Pricing increases shall be as set forth in the Order Form(s). If the Order Form does not reflect a renewal price, then the annual increase in subscription fees for any renewal or extension shall be the greater of 5% per annum or the percentage increase shown in the most recently available CPI-All Urban Counties over the most prior twelve months.
- 11.3. Termination for Convenience.** If You are a government entity, You shall have the right to terminate this Agreement in its entirety for Your convenience at any time by providing us with written notice. Such termination shall not entitle You to a refund of any pre-paid subscription fees or other costs, and You must promptly pay any unpaid obligations owed to Us as of the date of Your written notice of termination (which shall be given in a manner consistent with Section 12.2.)
- 11.4. Termination for Cause.** A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 11.5. Refund or Payment upon Termination.** Upon any termination for cause by You, We shall refund You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Upon any termination for cause by Us, You shall pay any unpaid fees covering the remainder of the term of all Order Forms after the effective date of termination. In no event shall any termination relieve You of the obligation to pay any fees payable to Us for the period prior to the effective date of termination.
- 11.6. Return of Your Data.** Upon written request by You on or before the effective date of the expiration of Your subscriptions or any termination of the Services, We will make available to You for download a file containing Your Data in a MS SQL database formatted file. If we do not receive a timely request to provide You with a copy of Your Data, We shall have no obligation to maintain Your Data and shall promptly thereafter, unless legally prohibited, delete all of Your Data in Our systems or otherwise in Our possession or under Our control.
- 11.7. Surviving Provisions.** Section 5 (Fees and Payment for Purchased Services), 6 (Proprietary Rights), 7 (Confidentiality), 8.3 (Disclaimer), 9 (Indemnification), 10 (Limitation of Liability), 11.5 (Refund or Payment upon Termination), 11.6 (Return of Your Data), 12 (Who You Are Contracting With, Notices, Governing Law and Jurisdiction) and 13 (General Provisions) shall survive any termination or expiration of this Agreement.

12. WHO YOU ARE CONTRACTING WITH, NOTICES, GOVERNING LAW AND JURISDICTION

AutoMon and Tulare County

12.1. General. Who You are contracting with under this Agreement, who You should direct notices to under this Agreement, what law will apply in any lawsuit arising out of or in connection with this Agreement, and which courts can adjudicate any such lawsuit, depend on where You are domiciled.

12.2. Manner of Giving Notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Billing-related notices to You shall be addressed to the relevant billing contact designated by You. All other notices to You shall be addressed to the authorized person designated by You.

12.3. Agreement to Governing Law and Jurisdiction. This Agreement shall be governed by the laws of Your state without regard to or application of choice of law rules or principles. Both parties hereby consent to the exclusive jurisdiction of the state and federal courts located within Your state, agree to venue lying in such courts, and expressly waive any objections or defense based upon lack of personal jurisdiction or venue or forum non conveniens.

12.4. Waiver of Jury Trial. Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement

13. GENERAL PROVISIONS

13.1. Criminal Justice Information Services ("CJIS") Requirements.

In the event You are a Criminal Justice Agency subject to CJIS regulations the following representations and responsibilities shall apply: (i) We acknowledge that each of Our employees who will have access to CJIS information has received a copy of the current Federal Bureau of Investigation CJIS Security Policy ; (ii) We will ensure that each of Our employees who will have access to CJIS information signs a Security Addendum Certification; (iii) We will return an executed copy of such addendums to You; (iv) We have provided proof of CJIS training for such employees to the agency in Your State authorized to accept this information on your behalf and (v) We will maintain compliance with the CJIS requirements applicable to Us for the duration of the period of time We are providing you Services.

13.2. Export Compliance. The Services, other technology We make available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. You shall not permit Users to access or use Services in a U.S.-embargoed country (currently Cuba, Iran, North Korea, Sudan or Syria) or in violation of any U.S. export law or regulation.

- 13.3. Anti-Corruption.** You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Our employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If You learn of any violation of the above restriction, You will use reasonable efforts to promptly notify Our Legal Department.
- 13.4. Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.
- 13.5. No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.
- 13.6. Waiver.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right
- 13.7. Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.
- 13.8. Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement upon written notice to the assigning party. In the event of such a termination, We shall refund to You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- 13.9. Executory Clause.** If You are a government entity, notwithstanding anything in this Agreement to the contrary, You shall have no liability for the Services to Us beyond the funds appropriated and made available for the Services.
- 13.10. Insurance.** We shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at Our expense, insurance with stated minimum coverages, and otherwise described on Schedule A, attached to this Agreement.

13.11. Entire Agreement. This Agreement, including all exhibits and addenda hereto and all Order Forms, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Order Form, the terms of such exhibit, addendum or Order Form shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in Your purchase order or other order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

14. DESCRIPTION OF SERVICES

Caseload Explorer

Caseload Explorer was designed to simplify and empower the management of all areas of Community-based Supervision. In a single application with an efficiently organized data store, Caseload Explorer provides a case and financial management system in a secure environment for protecting, organizing, sharing, and managing client information. Caseload Explorer's powerful underlying technology and sophisticated data model can help agencies connect and synchronize multiple applications to make IT integration challenges more manageable. Caseload Explorer is firmly built on advanced Microsoft® technology and can scale to handle exponential growth without compromising system performance. Includes integration with Ce SRF.

Ce Analytics

Ce Analytics provides critical insights into the general health of their agency and their case management database. Ce Analytics gives senior management the tools needed to deeply visualize and analyze case management data through a series of dashboards which display Key Performance Indicators (KPIs). Ce Analytics presents dashboards and metrics providing insight into Supervision Relative Burden, Investigation Relative Burden, Contact Compliance, Clients Needing Attention, Data Integrity and other key performance indicators that are critical in mitigating recidivism. Ce Assessments is hosted on Microsoft Azure Government.

Ce Assessments

Ce Assessments provides access to proprietary and public domain Risk, Needs and Behavioral Screening assessments through an intuitive SaaS-based assessment management platform. Assessors can complete a variety of assessments, interpret results, view assessment history, and generate completed assessment reports. Ce Assessments provides real-time access to assessment data for reporting and analysis and is fully integrated with Ce Planning, utilizing assessment-identified needs to create dynamic Adult and Juvenile Case Plans, including Title IV-E.

Ce Pretrial

Ce Pretrial is a SaaS case and data management system designed specifically for Pretrial Services agencies to efficiently and effectively manage all phases of Pretrial. With a focus on providing tools to effectively measure and manage risk, Ce Pretrial leverages today's most modern technologies and a high level of configuration to reflect industry best practices married closely with local policies and procedures.

SCHEDULE B**FEES, CHARGES AND EXPENSES****Annual Charges for Licensed Software**

#	ITEM	July 1, 2020 to June 30, 2021	July 1, 2021 to June 30, 2022	July 1, 2022 to June 30, 2023
1	Caseload Explorer Annual Support and Maintenance (includes Ce Analytics Subscription and Escrow of Source Code).	\$155,245.97	\$163,008.27	\$171,158.68
2	Ce Assessments and Ce ARF Annual Subscription. <i>*This term has been prorated 14 months for May 1 2020 to June 30, 2021 to align all annual term dates.</i> <i>Calculation: annual cost of \$9,380.60 = \$781.72 per month, \$781.72 * 14 months = \$10,944.08.</i>	*\$10,944.08	\$9,849.63	\$10,342.11
3	Ce Pretrial Annual Agency Wide Subscription.	\$28,350.00	\$29,767.50	\$31,255.88
4	Data Extract Services (Ce Pretrial, Ce Assessments, Ce Planning)	\$3,000.00	\$3,150.00	\$3,307.50
Total Annual Recurring Charges		\$197,540.05	\$205,775.40	\$216,064.14

Custom Enhancements and Interfaces

ITEM	July 1, 2020 to June 30, 2021	July 1, 2021 to June 30, 2022	July 1, 2022 to June 30, 2023
Hourly Rate: Project Management Services, Customization Services, Configuration Services, Training Services, Interfaces Development Services, Consulting Services, Travel Time and Data Conversion Services.	\$214.55	\$225.27	\$236.54

**Hourly Rate, Support and Maintenance Fees and Subscriptions are subject to an annual 5% escalation.*

SCHEDULE C

INSURANCE PROVISIONS

Vendor shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property which may arise from, or in connection with, performance under the Agreement by the Vendor, his agents, representatives, employees and subcontractors, if applicable.

A. Minimum Scope & Limits of Insurance.

1. Coverage at least as broad as Commercial General Liability, insurance Services Office Commercial General Liability coverage occurrence form GC 00 01, with limits no less than \$1,000,000 per occurrence including products and completed operations, property damage, bodily injury and personal & advertising injury. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. Insurance Services Office Form Number CA 00 01 covering Automobile Liability, (any auto) of \$1,000,000 per occurrence. If an annual aggregate applies it must be no less than \$2,000,000.
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. Technology Professional Liability (Errors and Omissions) Insurance appropriate to the Vendor's profession, with limits no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties, credit monitoring expenses.

B. Specific Provisions of the Certificate.

1. If the required insurance is written on a claims made form, the retroactive date must be before the date of the contract or the beginning of the contract work and must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
2. Vendor must submit endorsements to the General Liability reflecting the following provisions:
 - a. The COUNTY, its officers, agents, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Vendor; or automobiles owned, leased, hired or borrowed by the Vendor.*

b. For any claims related to this project, the Vendor's insurance coverage shall be primary insurance as respects the County, its officers, agents, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, agents, officials, employees or volunteers shall be excess of the Vendor's insurance and shall not contribute with it.

c. Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be canceled by either party, except with written notice to the County.

d. Vendor hereby grants to County a waiver of any right to subrogation which any insurer of Vendor may acquire against the county by virtue of the payment of any loss under such insurance. Vendor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

3. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the County for all work performed by the Vendor, its employees, agents and subcontractors. Vendor waives all rights against the County and its officers, agents, officials, employees and volunteers for recovery of damages to the extent these damages are covered by the workers compensation and employers liability.

C. Deductibles and Self-Insured Retentions.

Self-insured retentions must be declared and the County Risk Manager must approve any deductible or self-insured retention that exceeds \$100,000.

D. Acceptability of Insurance.

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A-:VII and a Standard & Poor's Rating (if rated) of at least BBB and from a company approved by the Department of Insurance to conduct business in California. Any waiver of these standards is subject to approval by the County Risk Manager.

E. Verification of Coverage.

Prior to approval of this Agreement by the County, the Vendor shall file with the submitting department, certificates of insurance with original endorsements effecting coverage in a form acceptable to the County. Endorsements must be signed by persons authorized to bind coverage on behalf of the insurer. The County reserves the right to require certified copies of all required insurance policies at any time.

Rev. 3/2/17

SCHEDULE D

Software Maintenance Handbook



Software Maintenance Services

Customer Handbook

Version 6.2

Effective Date: May 29, 2019

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WELCOME TO AUTOMON SUPPORT

AutoMon is committed to ensuring our customers' success by offering direct, knowledgeable, and responsive technical support. We strive to create a support environment that will provide you with timely information and prompt resolutions resulting in maximized availability and increased performance of our Software.

This handbook provides guidelines and reference materials that describe AutoMon's Software support, system and application upgrade process, certain customer responsibilities and Service Level response times. In most cases, the delivery of our support and maintenance for AutoMon Software products and services are governed by the terms and conditions herein. In some cases, you or your firm, company or government agency has executed a separate License, Support and Maintenance Agreement with AutoMon. If you have a separate Agreement, to the extent this Handbook and your Agreement differ, your Agreement will govern your support and maintenance arrangements with AutoMon.

Some of AutoMon Software products may be installed locally/on-premise on a customer's servers or alternatively in Microsoft Azure Cloud; others are hosted exclusively on Microsoft Azure Cloud. AutoMon's responsibilities will depend in some instances on where the Software is installed. For example, if the customer has the Software locally installed on servers they control, database backups, system and Software upgrades, encryption, anti-virus and fraud detection software are the responsibility of the customer. If the Software is hosted on Microsoft Azure Cloud by

AutoMon, then those same responsibilities will be borne by AutoMon. See *Customer*

Responsibilities section for additional responsibilities.

The Customer is responsible for First Line Support of any AutoMon Software product, without regard to where the Software is hosted.

CONTACTING AUTOMON SUPPORT

Once a Customer is using an AutoMon product or service, support is handled by AutoMon's Help Desk. Support may be requested using AutoMon's toll-free phone number, or via TeamSupport, an online portal for reporting issues or errors. After-hours support is available for an additional hourly fee and only offered on a non-guaranteed response time.

The AutoMon Help Desk may be reached by calling 1-888-726-8110, ext 2. AutoMon's Standard Support

Hours are: Europe and South America Mon-Fri 9 a.m. to 5 p.m. (ET); North America (except for Alaska and Hawaii) Mon-Fri 9 a.m. to 5 p.m. (Local Time Zone); Alaska and Hawaii Mon-Fri 6 a.m. to 5 p.m. (Pacific Time). In all cases, excluding weekends and holidays. Alternatively, TeamSupport can be accessed via the AutoMon website Support page at:

<https://automonllc.na1.teamsupport.com/>

Logons and Passwords to AutoMon's TeamSupport are issued through the portal itself. To receive a password, visit the URL above and select "Log In" to create an account. During the Term of your License, Maintenance and Support Agreement or your Master Subscription Agreement, there is no limit to the amount of Standard Business Hours Support so long as you provide Front Line Support in accordance with the terms described below.

CUSTOMER RESPONSIBILITIES

You are required to establish and maintain an internal help desk to provide First Line Support for the Software. This means that you are responsible for your internal network, local hardware, systems software on your servers, desktop configuration and support and basic user questions or problems regarding the features and functions of the Software. In all cases, First Line Support requires you to investigate and provide initial response to your users for the following:

- First call response respecting performance, functionality or operation of the system and Software;
- Attempt to recreate the reported problem;
- Document the reported problem, including, when possible, screenshots and/or detailed descriptions with reproduction steps;
- Document the steps taken by your First Line Support to troubleshoot the problem; ● Resolve, when possible, the problems your users have reported.

If after reasonable commercial efforts your First Line Support is unable to diagnose or resolve the issues, your designated representative will contact AutoMon Support to report the issue. In the event that you do not establish and maintain First Line Support for your users throughout the term of your Maintenance or Subscription agreement, AutoMon reserves the right to request an increase to your current subscription or maintenance fees and/or assess charges for out of scope work. Any additional charges, referred to in the previous sentence, will constitute a change order that must be signed by both parties.

Additionally, customers will, at your own expense:

- *For customers hosting their Software locally*, upgrade all system software on or before the end of Mainstream support from Microsoft (Recommended);
- Update, maintain and patch all system software, security, anti-virus, and fraud detection software to the current releases from the licensor on all customer servers used in connection with the Software;
- Consistent with government regulations (e.g. HIPAA, CJIS), apply database encryption software to secure all private or personal data stored locally while at rest or in transit;
- When the Software is locally installed, implement and perform appropriate data backup and data recovery procedures;
- Secure a high speed internet connection for use by AutoMon to perform support services and for your users to access the Software.

SERVICE LEVEL DEFINITIONS

Service requests for Software may be submitted by your designated representative online via AutoMon's web-based customer support system, TeamSupport, or by telephone. The Service Level shall be determined based on the severity definitions specified below.

Service Level	Service Level Definition	Initial Response Time	Resolution
1	Your production use of the Software is stopped or severely impacted such that you cannot continue to work. The operation is mission critical to the business and no Circumvention Procedures are available.	2 hours	2 business days
2	You experience a severe loss of service where essential functionality is unavailable, however, operations can continue in a restricted fashion or by use of a Circumvention Procedure.	1 business day	5 business days

3	You experience a loss of service where nonessential functionality is unavailable and a workaround is not available to restore functionality.	2 business days	25 business days
4	You experience a loss of service where non-essential functionality is unavailable. The impact is an inconvenience or a Circumvention Procedure is available.	2 business days	Within next two version releases
5	A cosmetic or minor issue that does not impact the operation of a Software.	2 business days	Issue may be resolved at AutoMon's discretion at a future date
6	All Enhancement requests, usage questions, or requests for training. Also reported problems that are caused by customer computers, local environments, networks or third party software.	4 business days	These requests are outside the scope of our Maintenance obligations

PRODUCT VERSION RELEASES

All of AutoMon's Software products include the right to Version Releases throughout the term of any maintenance or subscription agreement. If you host the Software on your servers, you will be responsible for installing Version Releases on your servers. You may contract with AutoMon to assist with installation at an additional charge. If your Software is hosted by AutoMon on Microsoft Azure, AutoMon will install the Version Releases.

The term "Version Releases" means new versions of the Software you have licensed from AutoMon that contain technical repairs, improvements, functional enhancements, updates, and/or maintenance changes to existing functionality. When appropriate, Version Releases will be accompanied by release notes describing the new features or functionality, and where appropriate, an installation guide (locally installed Software only) shall be provided.

The Customer shall be responsible for training with respect to each Version Release, or you may contract with AutoMon to perform these services.

Upgrade Process

For AutoMon hosted Software, the steps are:

1. AutoMon notifies customers via email that a new version or release is ready and when it is scheduled to be deployed. During deployment of new versions or releases, the Software may be unavailable for use for a short period of time; the accompanying release notice will indicate if there is anticipated downtime. In most cases these deployments will occur after business hours.

2. AutoMon deploys the Version Release.

For on-premise Software (Software that resides on customer owned or controlled servers) the steps are:

1. AutoMon will notify customers that a new Version Release to their Software is ready to be deployed.
2. Download the required installation files from the AutoMon SFTP site or as otherwise directed by AutoMon. Instructions for obtaining and installing those updates will be provided by AutoMon.
3. Prepare your servers for implementation, with updates to your servers' system software, and run the installation files. For a time and materials charge, AutoMon will assist with updating local servers and running the installation programs associated with updates. See your Agreement with AutoMon for applicable hourly rates.
4. In an increasing number of instances, Version Releases will be installed without active assistance of the customer, via AutoMon's automated update process using Ce Sync. When Ce Sync is utilized to install updates to your Software, you will be notified in advance by AutoMon and provided release notes describing the changes that will be implemented.

OTHER SUPPORT SERVICES

Customers may request additional services by submitting a work or enhancement request through TeamSupport or through AutoMon's Sales department (sales@automon.com). Other such services include: (a) additional training; (b) programming or configuration services; and (c) business analysts. AutoMon shall provide to Customer a written response to the request which describes in detail the anticipated impact of the request on the existing Software, the time required to perform such services, an implementation plan, and a schedule of expected costs.

DEFINITIONS

- a) **"Circumvention" or "Circumvention Procedures"** shall mean, as applied to a Documented Defect, a change in operating procedures whereby the Customer can reasonably avoid any deleterious effects of such Documented Defect.
- b) **"Documented Defect"** means a failure of the Software to properly perform any of its intended functions. The Customer must use reasonable effort to document a Documented Defect with sufficient information to recreate the defect, including, but not limited to, the operating environment, data set, and user, and the Customer must deliver such information to AutoMon concurrently with its notification to AutoMon of such defect. The Customer shall use all reasonable efforts to eliminate any non-application related issues prior to its notification to AutoMon of such defect, including, but not limited to, issues related to the network, user training and data problems not caused by the Software. Any technical or other issue for which the Customer requests services, but which is not a Documented Defect, shall be treated as a request for additional services requiring a Change Order.

- c) **"Documentation"** means the training materials, user's manuals and other materials in any form or medium provided by AutoMon to the users of the Software regarding the use or maintenance of Software.
- d) **"Enhancement."** Any modification or addition that, when made or added to the Software, changes its utility, efficiency, functional capability, or application, but that does not constitute an Error Correction.
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