Subject: Contract with Noble Software Group, LLC, for software, licensing, maintenance and customizations

Department: Probation

Meeting Date Requested: July 24, 2018

Contact: Michelle Sawyer Phone: 538-7849

Regular Agenda ☐ Consent Agenda ☒

Department Summary: (Information provided in this section will be included on the agenda. Attach explanatory memorandum and other background information as necessary).

The Probation Department currently uses Noble Software Group, LLC (Noble) to provide software, software licensing, account configuration, annual maintenance, customizations, implementation consulting, and staff training for a program designed to evaluate the criminogenic risk factors and treatment needs of adult and juvenile offenders. The current contract expired June 30, 2018.

Approval is requested for the Probation Department to contract for another year with Noble to provide the services noted above for a criminogenic risk factors and treatment needs program. Funding will be provided by Youthful Offender Block Grant (YOBG) and SB 678 (Community Corrections Performance Incentive Act of 2009) funds. The term of the contract is July 1, 2018 through June 30, 2019, with a maximum amount payable of $29,610.

Fiscal Impact:
Funding provided by YOBG and SB 678, and is included in the department budget submittal. No General Fund impact.

Personnel Impact:
No personnel impact

Action Requested:
Approve contract and authorize the Chair to sign.

Administrative Office Review: Andy Pickett, Deputy Chief Administrative Officer
Noble Software Group, LLC

This Contract, dated as of the last date executed by the County of Butte is between the County of Butte, a political subdivision of the State of California, hereinafter referred to as “County”, and the Contractor indicated in the variable information table below, hereinafter referred to as “Contractor.”

VARIABLE INFORMATION TABLE

Term of This Contract (Complete Dates in Just One of the Following Three Rows)

<table>
<thead>
<tr>
<th>√ Below</th>
<th>Term Begins</th>
<th>Term Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑</td>
<td>On Following Date</td>
<td>7/1/18 On Following Date</td>
</tr>
<tr>
<td>☐</td>
<td>Upon Date Notice to Proceed Received</td>
<td>Calendar Days Following Receipt of Notice to Proceed</td>
</tr>
<tr>
<td>☐</td>
<td>Upon Last Date Executed by County</td>
<td>Calendar Days Following Execution of Contract by County</td>
</tr>
</tbody>
</table>

County Department | Probation | FOB Point |
Terms | Net 30 | Basis of Price (Do Not √ More Than One of the Following Four Blocks) |
Price | 29,610 | ☑ Fixed Price | ☐ Annual Price | ☐ Monthly Price | ☐ Hourly Rate |
Not-to-Exceed Price | ☑ if Reasonable Expenses are authorized in addition to Hourly Rate |

Contractor Contact Information

- Contractor: Noble Software Group, LLC
- Address: P.O. Box 990891
- City, State & ZIP: Redding, CA 96099
- Telephone: 530-276-8487
- Facsimile: 530-276-8487

County Contact Information

- Project Manager: Michelle Sawyer
- Address: 42 County Center Drive
- City, State & ZIP: Oroville, CA 95965
- Telephone: 530-538-7849
- Facsimile: 530-538-6826

WHEREAS, County, through the County Department identified above, desires to have work described in the Attachment III - Scope of Work performed; and

WHEREAS, Contractor possesses the necessary qualifications to perform the work described herein.

NOW THEREFORE BE IT AGREED between the parties to this Contract that this Contract is subject to the provisions contained in the following attachments, which are made a part of this Contract. Should there be any conflicts between this Contract and the attachments that are incorporated herein, precedence shall first be given to the provisions of this Contract followed by the attachments, in descending order, as indicated below:

- Attachment I – Terms and Conditions
- Attachment II – Standard Insurance Requirements
- Attachment III – Scope of Work
- Exhibit A – COMPENSATION
- Exhibit B – SOFTWARE HOSTING AND MAINTENANCE

By signature below, the department head or his or her deputy certifies that no unauthorized alterations have been made to the Attachment I – “Terms and Conditions” and/or the Attachment II – “Standard Insurance Requirements.”

Steven K. Bordin
Typed or Printed Name Signature Date

This Contract and the above listed Attachments represent the entire undertaking between the parties.

COUNTY

Steve Lambert Date
Chair, Butte County Board of Supervisors

CONTRACTOR

Noble Software Group, LLC Date

REVIEWS FOR CONTRACT POLICY COMPLIANCE

General Services Contracts Division

By Date

REVIEWS AS TO FORM

BRUCE S. ALPERT
Butte County Counsel

By Date
ATTACHMENT I
TERMS AND CONDITIONS

1. **Scope of Work.** The work to be undertaken is identified in the attached “Attachment III – Scope of Work” which is made a part of this Contract.

2. **Reimbursement.** The work shall be performed for the Fixed price, Annual price, Monthly price or Hourly rate as indicated above in the variable information table, but shall not exceed the Not-to-Exceed Price if included in the variable information table. Reasonable expenses are authorized in addition to the Hourly Rate if both the Hourly Rate block and the block authorizing Reasonable Expenses are checked in the variable information table. Payment shall be made after the Project Manager or designee reviews and approves the work and after submittal of an invoice by the Contractor.

3. **County Project Manager.** The County project manager or designee for this undertaking who will receive payment invoices and answer questions related to the coordination of this undertaking is identified above in the variable information table.

4. **Independent Contractor.** Contractor is an independent contractor, working under his/her own supervision and direction and is not a representative or employee of County. Contractor agrees to file tax returns and pay all applicable taxes on amounts paid pursuant to this Contract.

5. **Confidentiality and Ownership.** The COUNTY retains the exclusive right of ownership to the work, products, inventions and confidential information produced for the COUNTY by the CONTRACTOR, and the CONTRACTOR shall not disclose any information, whether developed by the CONTRACTOR or given to the CONTRACTOR by the COUNTY. The parties agree that the COUNTY will own the work, products, inventions or information produced by the CONTRACTOR pursuant to this Contract.

6. **Termination.** This Contract may be terminated by either the County or Contractor by a thirty day written notice. Authorized costs incurred by the Contractor will be reimbursed up to the date of termination. Notwithstanding anything stated to the contrary herein, this Contract shall expire on the Completion Date indicated in the above Variable Information Table unless the Completion Date is modified by written amendment to this Contract.

7. **Indemnification.** Contractor agrees to accept responsibility for loss or damage to any person or entity, and to defend, indemnify, hold harmless and release the County, its officers, agents and employees from and against any and all actions, claims, damages, disabilities or expenses that may be asserted by any person or entity, including Contractor, to the extent arising out of or in connection with the negligent acts or omissions or willful misconduct in the performance by Contractor hereunder, whether or not there is concurrent negligence on the part of the County, but excluding liability due to the active negligence or willful misconduct of the County. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Contractor or its agents under worker’s compensation acts, disability benefit acts, or other employee benefits acts. Contractor shall be liable to County for any loss of or damage to County property arising out of or in connection with Contractor’s negligence or willful misconduct.

8. **Insurance Requirements.** Contractor shall procure and maintain for the duration of this Contract, insurance against claims for injuries to persons or damages to property which may arise from, or be in connection with the performance of the Work hereunder by Contractor, Contractor’s agents, representatives, employees and subcontractors. At the very least, Contractor shall maintain the insurance coverages, limits of coverage, and other insurance requirements as described in Attachment II to this Contract.
9. **Changes to the Contract.** Changes to this Contract may only be approved by written amendment to this Contract.

10. **Contractor's Standard of Care.** County has relied upon the professional ability and training of the Contractor as a material inducement to enter into this Contract. Contractor hereby warrants that all of Contractor's work will be performed in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable Federal, State and local laws, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release.

11. **Termination for Exceeding Maximum Level of Expenditures.** Contracts exceeding the monetary limits delegated to the Purchasing Agent, or authorized deputies, are not valid unless duly executed by the Chair of the Board of Supervisors. If this Contract was executed for the County of Butte by the Purchasing Agent, or authorized deputy, this Contract shall automatically terminate on the date that the provision of services or personal property or incurring of expenses, the cumulative total of which, exceeds the amount prescribed by Government Code Section 25502.5 for personal services contracts or the amount prescribed by Public Contract Code Section 22032 (b) for public works contracts.

12. **Termination for Exceeding Maximum Term.** Contracts exceeding the three year term delegated to the Purchasing Agent, or authorized deputies, are not valid unless duly executed by the Chair of the Board of Supervisors. If this Contract was executed for the County of Butte by the Purchasing Agent, or authorized deputy, this Contract shall automatically terminate on the date that the term exceeds three years. Amendments to this Contract, or new Contracts for essentially the same purpose, shall not be valid beyond the three year limitation unless duly executed by the Chair of the Board of Supervisors.

13. **Compliance with Laws.** Contractor shall comply with all Federal, State and local laws, rules and regulations including, without limitation, any nondiscrimination laws.

14. **Applicable Law and Forum.** This Contract shall be construed and interpreted according to California law and any action to enforce the terms of this Contract for the breach thereof shall be brought and tried in the County of Butte.

15. **Contradictions in Terms and Conditions.** In the event of any contradictions in the terms and/or conditions of this Contract, these Attachment I TERMS AND CONDITIONS shall prevail.

16. **No Delegation or Assignment.** Contractor shall not delegate, transfer or assign its duties or rights under this Agreement, either in whole or in part, directly or indirectly, by acquisition, asset sale, merger, change of control, operation of law or otherwise, without the prior written consent of County and any prohibited delegation or assignment shall render the contract in breach. Upon consent to any delegation, transfer or assignment, the parties will enter into an amendment to reflect the transfer and successor to Provider. County will not be obligated to make payment under the Agreement until such time that the amendment is entered into.
ATTACHMENT II
INSURANCE REQUIREMENTS FOR MOST CONTRACTS
Not for Professional Services or Construction Contracts

*Please provide a copy of Attachment II to your insurance agent.

Contractor shall procure and maintain for the duration of this contract, insurance against claims for injuries to persons or damages to property that may arise from or be in connection with the performance of the work hereunder by Contractor, Contractor's agents, representatives, employees and subcontractors. Before the commencement of work Contractor shall submit Certificates of Insurance and Endorsements evidencing that Contractor has obtained the following forms of coverage:

A. MINIMUM SCOPE AND LIMITS OF INSURANCE - Coverage shall be at least as broad as:

1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than $1,000,000 per occurrence. 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) Automobile Liability: ISO’s Commercial Automobile Liability coverage form CA 00 01.
   1. Commercial Automobile Liability: Covering any auto (Code 1) for corporate/business owned vehicles, or if Contractor has no owned autos, covering hired (Code 8) and non-owned autos (Code 9), with limits no less than $1,000,000 per accident for bodily injury and property damage.

   2. If no transportation services of any type are provided, and use of a motor vehicle is strictly limited to travel to and from work or work sites, evidence of Personal Auto Policy coverage with limits no less than $100,000 per person, $300,000 each accident, $50,000 property damage may be provided in lieu of Commercial Automobile Liability Insurance.

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 and disease. (Not required if Contractor provides written verification he or she has no employees.)

If Contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

B. OTHER INSURANCE PROVISIONS - The insurance policies are to contain, or be endorsed to contain, the following provisions:

1) The County of Butte, its officers, officials, employees and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor, including materials, parts or equipment furnished in connection with such work or operations. General Liability coverage can be provided in the form of an endorsement to Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38 and CG 20 37 forms if later revisions used).

2) For any claims related to this contract, Contractors insurance coverage shall be primary insurance coverage at least as broad as ISO Form CG 20 01 04 13 as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the
County, its officers, officials, employees and volunteers shall be excess of Contractor’s insurance and shall not contribute with it.

3) Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the County.

C. WAIVER OF SUBROGATION: Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor 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.

The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of the County for all work performed by the Contractor, its employees, agents and subcontractors.

D. SELF-INSURED RETENTIONS: Self-insured retentions must be declared to and approved by the County. The County may require Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

E. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best’s rating of no less than A:VII, unless otherwise acceptable to the County.

F. VERIFICATION OF COVERAGE: Contractor shall furnish County with original certificates of insurance including all required amendatory endorsements (or copies of the applicable policy language affecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor’s obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

G. SPECIAL RISKS OR CIRCUMSTANCES: County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

H. SUBCONTRACTORS: Contractor shall include all subcontractors as insured under its policies or require all subcontractors to be insured under their own policies. If subcontractors are insured under their own policies, they shall be subject to all the requirements stated herein, including providing the County certificates of insurance and endorsements before beginning work under this contract.
ATTACHMENT III
SCOPE OF WORK

Unless indicated otherwise herein, the Contractor shall furnish all labor, materials, transportation, supervision and management, and pay all taxes required to complete the project described below:

Contractor shall provide software used to conduct automated risk assessment and provide case planning for both juvenile and adult offender populations. Contractor’s software is a web-based application that is used to provide validated offender assessments in accordance with Evidence–Based Practices (EBP). Contractor’s software is, and shall remain, fully integrated with the County’s Integrated Justice System database.

1. DEFINITIONS

For the purpose of clarity the following definitions shall apply:

A. **Annual Hosting Fee** shall mean for hosted customers, the annual hosting fee is analogous to the license maintenance charged to on premise customers. The Annual Housing Fee covers the hosting of the application by Contractor, database maintenance tasks, and any needed technical support (including help with integration services). All hosted customers receive new application release at no extra cost. The Annual Housing Fee does not cover custom feature development, if requested by County, undertaken by Contractor.

B. **Consulting** shall cover the development of business rules and support related to business processes around Evidence Based Practices (EBP). Contractor always includes consulting services at no additional fee as part of the hosting service.

C. **Data** shall mean information recorded in the system on behalf of County or other counties identified herein or in any Attachment hereto relating to probationers and other individuals within the criminal justice system that may include such elements as may or may not be deemed to be personal information. Contents of the Database (tables and structure) shall be considered as data.

D. **Documentation** shall mean text materials which describe the design, function, operation and use of the Licensed Software and which are customarily delivered by Contractor to licensees thereof.

E. **Hosting Site** shall mean an internet-based website maintained by Contractor for the purposes of delivering the Licensed Software to County.

F. **License Maintenance** shall mean a fee charged as a percentage of new-license costs. Maintenance entitles the customer to all new application versions developed by Contractor, as well as unlimited technical support and bug fixes. Maintenance does not cover custom feature development undertaken by Contractor.

G. **Licensed Software** shall mean the source and object code software identified in Attachment III- Scope of Work. Licensed Software shall be delivered solely by the Hosting Site.

H. **Materials** shall mean programs, program upgrades, source code, object code, executable code, website, functional systems, ideas, inventions, procedures, technology, research, marketing, memoranda, discs, diskettes, devices and information and documentation of same.

I. **Quality Assurance** shall mean the Inter-Rater Reliability Site (IRR Site) access. Development of a Continuous Quality Improvement (CQI) plan is included at no additional cost to County. Use of CQI trainings is entirely optional, and does not affect access to the Assessment Platform.
J. **Site** shall mean the web address or URL, using either a name or IP address that denotes the location of the Contractor Hosted Application.

K. **Software** shall mean the Contractor’s Enterprise and/or Hosted Application, including, but not limited to, all code, source code, designs, functions, features, interfaces, screens, graphs, graphical representations, formulas, algorithm(s), third-party tools, tool kits, files, folders, updates, propagations, patches, versions, and assessment instruments and questionnaires.

L. **System** shall mean the entire environment in which the software operates, including but not limited to, all hardware and software that in any way affect the way in which the software operates. For example, connectivity, speed and reliability.

M. **Open Database Connectivity (ODBC)** is an open standard application programming interface for accessing a database.

2. **RESPONSIBILITIES OF CONTRACTOR**

   A. **LICENSED SOFTWARE**

   1. Contractor shall provide one hundred and forty (140) named user software licenses to use certain proprietary software and access related documentation. Such licenses shall be provided to County as a hosted service.

   2. Contractor shall provide View, a DataMart-based analytics program, at no additional cost to the County. View shall be configured to work with all adult and juvenile assessment programs and case plans formats as outlined in Attachment II-Scope of Work, Section 3 and 4. This tool shall allow for additional data sources to be added into the View on an ongoing basis at no additional cost to the County. View data shall be hosted or housed on a County based server and automatically updated by Contractor on a daily basis, to be determined at time of DataMart implementation.

   3. Adult Assessments shall include:

      a. Static Risk Assessment, V2 (SRA)
      b. Offender Needs Assessment (ONA)
      c. Detention Risk Instrument (DRAI)
      d. Ohio Risk Assessment System (ORAS) Pre Trial Assessment tool and Community Supervision Tool RT
      e. Virginia Pre Trial Risk Assessment Instrument (VPRAI) and/or ORAS-PAT
      f. Static 99
      g. For the adult system, Contractor shall include the case plans in the product at no additional cost to County:
         - Standard Case Plan integrated with ONA

   4. Juvenile Assessments shall include:

      a. Positive Achievement Change Tool (PACT), Pre Screen
      b. Positive Achievement Change Tool (PACT), Full Assessment
      c. Detention Risk Assessment Instrument (DRAI)
      d. The Prison Rape Elimination Act (PREA) compliance assessment
      e. MAYSI-II (Massachusetts Youth Screening Instrument, Version 2)
      f. For the juvenile system, Contractor shall include the case plans in the product at no additional cost to County:
         - Title IV-E Field Supervision Case Plan, and reviewed by Chief Probation Officers of California (CPOC), Department of Social Services (DSS), via Justice Benefits Incorporated (JBI), integrated with PACT
         - Placement Case Plan integrated with PACT
         - Standard Case Plan integrated with PACT
B. HOSTING

1. Contractor shall host applications provided to County which includes, database maintenance tasks, needed technical support (including integration services). County shall receive new application releases at no additional cost to County.

C. DATABASE

1. Contractor shall provide County regular backups from Contractor's database made available and/or transferred to County on a nightly basis. The database backup is County owned and may be handled and/or transferred to a third party once the contract has terminated and/or expired.

2. Contractor shall by execution of this contract acknowledge and affirm County's current and future ownership of database, its structure and functionality (usability); as well as any data in it, including any data derived by County and/or Contractor in relation to the database.

3. Contractor shall provide Open Database Connectivity (ODBC) live or near-live access to County.

D. LICENSE MAINTENANCE

1. License maintenance shall include all new application versions developed by Contractor, as well as unlimited technical support and bug fixes. License maintenance will be at no additional cost to County, as this is a hosted (subscription) solution which is analogous to license maintenance and provides identical benefits.

E. QUALITY ASSURANCE

1. Contractor shall provide outcomes in accordance with claims made as inducement for County to select the product, as stipulated in this contract, including, but not limited to the following:
   a. Validated Assessments
   b. Automated Case Planning
   c. Customized reporting
   d. Evidence-Based Practices (EBP)

2. Contractor shall provide an Inter-rater Reliability Site, a subscription service that allows staff to be assigned to classes to view a professional interview and then administer an assessment based on the video. This service shall be available to County upon request.

3. Development of a Continuous Quality Improvement (CQI) Plan shall be provided at no additional cost to County.

F. CONSULTING

1. Contractor shall develop business rules and support related to business processes around EBP. Consulting services shall be included at no additional cost to County.

3. RESPONSIBILITIES OF COUNTY

A. County will provide network related services, including internet access, to allow County access to the Licensed Software.

B. County will provide operating systems and platforms with Microsoft Internet Explorer 9 or better, as well as Adobe Reader for the viewing of any reports.
C. County shall comply with the Software Terms and Conditions as described in Exhibit B- HOSTING AND MAINTENANCE, attached hereto and incorporated herein.

4. COMPENSATION

A. Compensation under this agreement shall be described and set forth in Exhibit A - COMPENSATION, attached hereto and incorporated herein.

5. BILLING AND PAYMENT

A. The term of this agreement shall be from July 1, 2018 to June 30, 2019, unless terminated earlier in accordance with the terms and conditions of this agreement.

B. Contractor shall submit an invoice annual hosting fees for all active licenses by April 30th for each calendar year.

C. County shall make payments within thirty (30) days of receipt of properly detailed invoices, to the satisfaction of the County.

D. Invoices shall be sent to:

   Butte County Probation
   Attention: Contracts
   42 County Center Drive
   Oroville, CA 95965
EXHIBIT – A
COMPENSATION

1. Compensation under this agreement shall be described and set forth as below:

<table>
<thead>
<tr>
<th>Description</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Hosting Fee Adult and Juvenile 140 Named Users</td>
<td>$25,240.00</td>
</tr>
<tr>
<td>IRR Site Access, Up to 140 Users</td>
<td>$4,370.00</td>
</tr>
<tr>
<td>Total</td>
<td>$29,610.00</td>
</tr>
</tbody>
</table>
EXHIBIT – B
SOFTWARE HOSTING AND MAINTENANCE

1. License

A. Software shall be able to be used at any of County's business premises without the prior approval of Contractor. The Licensed Software may not be used at other locations unless Contractor is notified and approves otherwise, such approval not to be unreasonably withheld. Use of the Licensed Software may be subsequently transferred to other locations maintained by County, provided that the total number of licenses at which the Licensed Software is used by County does not exceed the number of named user licenses specified in Attachment III-Scope of Work. County shall provide Contractor with written notice within thirty (30) days after such transfer.

B. The Licensed Software shall be used only for the processing of County's own business, which may include servicing and maintaining records on behalf of its customers and clients. County shall not permit any third party to use the Licensed Software. Authorized agents or contractors of County, acting for County, shall not be considered "third parties" for purposes of such limitation provided.

C. County shall not use or allow the use of the Licensed Software (a) for rental or in the operation of a service bureau; (b) through terminals located outside County's business premises by persons not employed by or under contract with County; or (c) as on-line control equipment in the operation of a nuclear facility, aircraft navigation or aircraft communication systems, or air traffic control machines.

D. Contractor hereby grants to County a non-exclusive and non-transferable (except as otherwise specifically provided by this agreement) hosting service license to use the current version of Licensed Software (or any other version provided to County by Contractor) on Contractor's hosting servers for the term of this agreement.

E. County shall not, either directly, or through a third party, reverse engineer, disassemble or decompile any software provided by Contractor, or make any attempt in any fashion, except as specifically provided in this agreement to obtain the source code to the Licensed Software, nor shall County reproduce or distribute, the Licensed Software or Hosted Site, or any part thereof, as part of any other software program. Further, County may not create any software program which makes direct function calls to any libraries which are third Party Materials and which are designated as unavailable for such purposes.

F. County is strictly prohibited from installing any third party software on Contractor's servers without the express written authorization of Contractor.

1. In the event that the authorized third party software disrupts Contractor's server, Contractor shall have the right to temporarily disable the software until the problem can be resolved.

2. In the event that the County installs third party software on Contractor's servers without the express written authorization of Contractor's, Contractor shall have the right to terminate the Services without notice.

2. Scope of License

A. License is for the Contractor hosted software solution. Below is a library listing of assessment instruments to be provided by Contractor.

1. PACT Pre (Positive Achievement Change Tool, Pre-Screen)
2. Full (Positive Achievement Change Tool, Full Assessment)
3. Detention Risk Assessment Instrument (DRAI)
4. Prison Rape Elimination Act (PREA) compliance assessment
5. Title IV-E Field Supervision Case Plan, as reviewed by CPOC/DSS via work with JBI
6. Placement Case Plan
7. Standard Case Plan
8. Static Risk Assessment, V2 (SRA)
9. Offender Needs Assessment (ONA)
10. ORAS-RT (Ohio Risk Assessment System's Reentry Tool)
11. VPRAI (Virginia Pretrial Risk Assessment Instrument) and/or ORAS-PAT (Ohio Risk Assessment System's Pretrial Assessment Tool)
12. MAYSI-II (Massachusetts Youth Screening Instrument, Version 2)
13. Static 99

B. County understands and acknowledges that Contractor shall not be liable for County network-related or County internet connection problems attributable to the operation of the Licensed Software and that County network configuration changes or total number of users may affect the system's performance. County agrees that this is a license only and that no title passes to County. County may export the Licensed Software without prior written consent of Contractor.

3. Updates to Assessment Instruments

A. Contractor shall update the assessment instruments provided to County periodically and make improvements based on the latest validation studies and research, in order to ensure the greatest level of prediction and to support effective practices and outcomes. Contractor shall maintain working relationships with research individuals and groups in an effort to provide most valid assessment instruments. Contractor shall provide the date that Contractor became aware of any validation and/or research studies relevant to the Contractor's library of assessment instruments to County within thirty (30) days of becoming aware of such validation and/or research studies. Updates shall be made available to County in the next available software release after such notice is received by Contractor, but no later than six (6) months after such notice to County. The types of updates and improvements to Contractor's assessment instruments include, but are not limited to, assessment items, item-level definition, domains, scoring algorithms, item and domain weighting, measurement factors, and reporting.

4. Materials Ownership

A. County agrees that this is a license only and that no title passes to County. County may not export the Licensed Software without prior written consent of Contractor. County agrees that if County acquires any replacement disk(s), new releases, additional Contractor software products, or additional documentation from Contractor in the future, that such software or material shall be considered "Materials" under this agreement and shall be subject to the terms and conditions herein, unless a separate license agreement covering such software or materials is required by Contractor and has been executed by County. These shall be the terms and conditions of ownership as long as this agreement is not in breach. Notwithstanding anything to the contrary, in the event of Contractor's breach of this agreement or a condition of default without cure by Contractor, ownership of the Licensed Software shall transfer to County in accordance with the terms and procedures stipulated in Section 9 of the agreement.

B. County may not transfer the Materials or assign its software license and duties under this agreement without the prior written consent of Contractor.

C. County shall not assert any ownership rights in the Materials, nor challenge Contractor's rights in or otherwise attempt to assert any rights in the Materials. County agrees not to modify, de-compile, disassemble, re-configure, or reverse-engineer the Licensed
7. Limited Warranty

A. Contractor warrants that, for thirty (30) days following County's acceptance of the Licensed Software furnished under this agreement or the deliverables provided pursuant to a Work Order hereunder (the "Warranty Period"), the Licensed Software, exclusive of Third Party Materials, will substantially conform to the accepted level of performance as set forth in this Section. To the extent that County notifies Contractor in writing during the applicable Warranty Period of any material non-conformity of the Licensed Software or deliverables with such acceptance level, and provides Contractor with (a) County's estimation of the severity of such non-conformity and (b) such printouts, typescripts, documentation and other details of such non-conformity as Contractor shall request, Contractor's sole obligations to use reasonable commercial measures to remedy or provide a work-around for such defect. In determining the timing of its response, Contractor shall be entitled to take into account the severity of the defect. In the event that Contractor determines that the Licensed Software is not defective in such respect, County shall reimburse Contractor for its services at Contractor's then current consulting rate for such services, which shall be provided by a duly executed amendment to this agreement.

B. To the extent its agreement with a supplier of Third Party Materials permits, Contractor shall pass through to County any performance warranty relative to such Third Party Materials; provided, however, that Contractor makes no additional or supplemental warranty with respect thereto.

C. Contractor warrants that it has, and on the date of acceptance of the Licensed Software will have, the full right and authority to grant this license and that neither this license non-performance under this agreement does or shall conflict with any
other agreement or obligation to which Contractor is a party or by which it is bound.

D. Contractor warrants that its technical and consulting services will be of a professional quality conforming to generally accepted industry standards and practices. During the thirty (30) day period following completion of any such services, Contractor shall, upon receipt of written notice from County describing a breach of the foregoing Warranty in such reasonable detail as is requested by Contractor, perform the services described in such written notice so as to conform to generally-accepted industry standards and practices.

E. These warranties do not cover defects or non-performance due to causes and products external to the Licensed Software, and are not valid with respect to such defects or non-performance.

F. If the Licensed Software is not in substantial compliance with the warranties contained in this agreement at the end of the Warranty Period, Contractor shall extend the Warranty Period until the Licensed Software is brought into such compliance.

G. If any modification is made to the Licensed Software by County without Contractor’s approval, this Warranty shall immediately be terminated with respect to such modified software. Correction for difficulties or defects traceable to County’s unauthorized modifications or unauthorized systems changes shall be billed to County at Contractor’s standard time and material charges which shall be provided by a duly executed amendment to this agreement.

H. Contractor makes no warranties with regard to Third Party Materials. Along with the transfer of title, Contractor agrees to transfer and assign to County all of Contractor’s rights and interests in and with respect to all purchase agreements for Third Party Materials being supplied under this agreement between Contractor and other manufacturers and distributors, subject to any limitations set forth in such agreements relating to such transfers. Upon request by County, all purchase agreements will be submitted to County for prior approval. Contractor will execute any documents or instruments reasonably necessary to effect the transfer and assignment of Contractor’s rights and interests thereunder. Contractor makes no representation as to the effectiveness, adequacy or enforceability of such transferred rights.

I. Except as otherwise specifically provided by this agreement, Contractor’s sole liability for any damages relating to the (a) performance of the Licensed Software and sufficiency of the services hereunder or (b) matters covered by this Warranty, shall be limited to the provisions of this Section 7 regardless of whether any liability is based on contract or other theory.

J. THESE WARRANTIES ARE LIMITED WARRANTIES AND ARE THE ONLY WARRANTIES MADE BY CONTRACTOR. CONTRACTOR MAKES AND COUNTY RECEIVES NO ADDITIONAL WARRANTY, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO AGENT, CONTRACTOR OR EMPLOYEE CONTRACTOR, EXCEPT CONTRACTOR’S DUTY AUTHORIZED REPRESENTATIVE, IS AUTHORIZED TO ALTER OR EXCEED THE WARRANTY OBLIGATIONS OF CONTRACTOR AS SET FORTH HEREIN.

8. Security

A. Contractor agrees to implement security procedures that shall protect the loss, misuse and alteration of County information under its control.

B. Security controls including secure backup and recovery processes, User Identification (User ID) and password encryption, firewalls, and a secure operations center shall be based on generally-accepted industry practices, sufficient to
prevent the disclosure and loss of County’s risk assessment information and/or data to unauthorized third parties. All data will be backed up on a daily basis, and securely transferred for storage to a location separate from that which houses the County production servers and data (e.g. off-site back-up).

C. County shall access Contractor services with an encrypted and valid User ID and password combination, all of which shall be managed by County. Password protected information shall be available only to authorized users within County’s department.

9. Condition of Default

A. As a condition precedent to the County’s right to terminate this agreement for cause, County shall first give Contractor written notice stating with specificity the cause or causes for the termination and if such cause or causes is/are susceptible of cure or remedy, Contractor shall have a period of thirty (30) days from and after the giving of such notice to fully, completely and effectively cure or remedy all cause or causes set forth in the notice by County. If all cause or causes have not been cured or remedied to County’s satisfaction (in County’s sole discretion) prior to the expiration of the 30 day cure period, this agreement shall be deemed terminated.

1. Contractor’s failure to configure, implement and support the View within thirty (30) calendar days of execution of this agreement.
2. Contractor’s failure to respond to inquiry or contact made by County within forty-eight (48) hours, not including weekends and holidays.
3. Contractor’s delays in technical support, maintenance, updates, upgrades or other routine tasks as scheduled wherein County has not acknowledged and accepted such delays or tasks for which Contractor has notified County and then fails to provide a remedy within thirty (30) calendar days of notice.
4. Software, System or Site errors, issues or anomalies that are repeated, cannot be isolated and resolved by Contractor within thirty (30) business days.
5. Software, System or Site errors, issues or anomalies that are not restored to reliability by Contractor within twenty-four (24) hours after initial inquiry or resolved by Contractor within thirty (30) days after initial inquiry.
6. Contractor files for bankruptcy, begins to dissolve the corporation or a receiver is appointed.
7. Contractor attempts to assign agreement to another party.