

AMENDMENT NUMBER TWO
TO
CONTRACT MA-060-17011453
BETWEEN THE
COUNTY OF ORANGE
AND
COMPUTRITION, INC.

This AMENDMENT NUMBER TWO to Contract Number MA-060-17011453 (hereinafter "AMENDMENT NUMBER TWO") between the County of Orange, a political subdivision of the State of California, operating through its Sheriff's Department (hereinafter "COUNTY") and Computrition, Inc. (hereinafter "CONTRACTOR") with a business address of 8521 Fallbrook Ave Ste 100, West Hills, CA 91304-3236, is made and entered upon execution of all necessary signatures.

RECITALS:

WHEREAS, COUNTY and CONTRACTOR executed a Contract for Automated Food Services System Software "AFSS" Maintenance and Support on June 1, 2017, for a term of June 19, 2017 through and including June 18, 2020, renewable for two (2) additional, one-year terms (hereinafter "ORIGINAL CONTRACT");

WHEREAS, COUNTY and CONTRACTOR renewed the ORIGINAL CONTRACT on May 28, 2020 for a one (1) year term of June 19, 2020 through and including June 18, 2021, in an amount not to exceed \$57,960.69, and amended Attachment B, Pricing of the ORIGINAL CONTRACT to reduce the Contract annual not to exceed amount for Year Four and Year Five; as well as amended Paragraph S, Change of Ownership of the ORIGINAL CONTRACT in its entirety and CONTRACTOR confirmed in writing that they understand and are in compliance with the County's Conflict of Interest Policy as stated in Article S herein (hereinafter "AMENDMENT NUMBER ONE");

WHEREAS, COUNTY desires to renew the ORIGINAL CONTRACT for a one (1) year term of June 19, 2021 through and including June 18, 2022, in an amount not to exceed \$56,555.73, and the CONTRACTOR has agreed to provide those services at the rates set forth herein;

NOW THEREFORE, in consideration of the mutual obligations set forth herein, both COUNTY and CONTRACTOR agree as follows:

1. ARTICLES

- a. Additional Terms and Conditions, Section 2, Term of Contract, of the ORIGINAL CONTRACT is amended to read in its entirety as follows:

2. Term of Contract:

This Contract shall commence upon execution of all necessary signatures, and continue in effect from 6/19/17 through and including 6/18/22, unless otherwise terminated by COUNTY. The period of 6/19/17 through and including 6/18/20 shall be known as Contract Number MA-060-17011453. The period of 6/19/20 through and including 6/18/22 shall be known as Contract Number MA-060-20011239. This contract may not be renewed.

b. ATTACHMENT B, Pricing of the ORIGINAL CONTRACT is amended to read in its part as follows:

2. Fees and Charges: County will pay the following fees in accordance with the provisions of this Contract. Payment shall be as follows:

Year Five Cost		
Annual Software Maintenance Fee (includes Annual Maintenance Fee \$28,464.82); 24/7 Computrition Support \$9,450 (non-taxable); Oracle DBA 24/7 \$16,640 (non-taxable) and Oracle Annual License (30 Named Users) \$2,000.91	Non-Taxable Amount	\$56,555.73
	Not to Exceed Amount	\$56,555.73

Contract shall not exceed \$56,555.73 for the term of 6/19/21 through and including 6/18/22.

2. A true and correct copy of the ORIGINAL CONTRACT is attached hereto as Exhibit A and incorporated by this reference.
3. A true and correct copy of AMENDMENT NUMBER ONE is attached hereto as Exhibit B and incorporated by this reference.
4. All other provisions of the ORIGINAL CONTRACT, and AMENDMENT NUMBER ONE, except as amended herein and to the extent they are not inconsistent with this AMENDMENT NUMBER TWO, remain unchanged and in full force and effect.

(Signature page to follows)

IN WITNESS WHERE OF, the Parties have executed AMENDMENT NUMBER TWO to ORIGINAL CONTRACT MA-060-17011453.

*Contractor: Computrition, Inc.

By: Eric W Lipsitt Digitally signed by Eric W Lipsitt Date: 2021.04.07 20:54:33 -04'00' Title: President

Print Name: Eric Lipsitt Date: April 7, 2021

*Contractor: Computrition, Inc.

By: Genevieve Gagnon Digitally signed by Genevieve Gagnon Date: 2021.04.08 08:30:18 -07'00' Title: V.P. Client Relations

Print Name: _____ Date: April 8,2021

**If the contracting party is a corporation, (2) two signatures are required: (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision.*

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County Of Orange

A political subdivision of the State of California



Sheriff-Coroner Department

By: _____ Title: _____

Print Name: _____ Date: _____

Approved by the Board of Supervisors: _____

Approved as to Form
Office of the County Counsel
Orange County, California

By: [Signature]
Deputy

**Contract MA-060-17011453 For
Automated Food Services System Software "AFSS" Maintenance and Support**

This agreement, hereinafter referred to as "Contract" is made and entered into as of the date fully executed by and between, **Computrition, Inc.** with a place of business at 8521 Fallbrook Avenue, Suite 100, West Hills, CA 91304-3236; hereinafter referred to as "Contractor," and the County of Orange, a political subdivision of the State of California, through its Sheriff-Coroner Department with a place of business at 320 N. Flower Street, 2nd Floor, Santa Ana, CA 92703, hereinafter referred to as "County," which may be referred individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS, the County purchased from Contractor a non-exclusive, perpetual and non-transferable license to certain Software developed by Contractor on June 19, 2007 in accordance with Automated Food Services System "AFSS" Software Contract N1000008936; and,

WHEREAS, the County entered into Agreement MA-060-12011893 with Contractor for maintenance and support of the software license for the Automated Food Services System Software "AFSS" on June 19, 2012 for a one year period, renewable for four additional one year periods which were renewed.

WHEREAS, the County desires to continue receiving certain maintenance and support services for the Software, as further described herein; and

WHEREAS, County's Board of Supervisors has authorized the Purchasing Agent or his designee to enter into a Contract for **Automated Food Services Systems Software "AFSS Maintenance and Support**.

NOW, THEREFORE, the Parties mutually agree as follows:

General Terms and Conditions:

- A. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.
- B. **Entire Contract:** This Contract, including Attachments A, B, C, and Exhibit 1 (Blank Child Support Enforcement Certification Requirements Form), which are incorporated herein by reference, when accepted by the Contractor either in writing or other commencement of performance hereunder, contains the entire contract between the Parties with respect to the matters herein and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental contracts by any County employee or agent, including but not limited to installers of equipment, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or his designee, hereinafter "Purchasing Agent".
- C. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated

herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

- D. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
- E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or description, or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments, nor deprive it of the right to return goods already accepted, at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods, or services, have actually been received and accepted in writing by County.
- F. **Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the system specifications, and 2) payment shall be made in advance by County and in accordance to Attachment C, Compensation and Pricing. If this Contract is terminated for any reason, Contractor shall immediately pay to County one-twelfth (1/12) of the Annual Fee for each month or portion thereof remaining in the Contract term.
- G. **Warranty:** Contractor expressly warrants that the goods/services covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnities as identified in paragraph "P" below, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any Software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "HH" below, it shall indemnify, defend and hold County and County Indemnities harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.
- I. **Assignment or Sub-contracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-contracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
- J. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of

this provision shall subject Contractor to all the penalties imposed for a violation of anti-discrimination law or regulation, including but not limited to, Section 1720 et seq. of the California Labor Code.

- K. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause or after thirty (30) days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation.
- L. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either Party to any other remedies provided by law.
- N. **Independent Contractor:** Contractor shall be considered an independent Contractor and neither Contractor, its employees nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor, shall qualify for workers' compensation or other fringe benefits of any kind through County.
- O. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion, and coordination of all documentation and other goods/services furnished by Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.
- P. **INSURANCE PROVISIONS**

Prior to the provision of services under this contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this contract for

inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of Contractor's current audited financial report. If Contractor's SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agents, employee's or subcontractor's performance of this Contract, Contractor shall defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) Contractor's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor's SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the State of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence

Technology Errors & Omissions	\$1,000,000 per claims-made
	\$1,000,000 aggregate

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the *County of Orange, its elected and appointed officials, officers, agents and employees* as Additional Insured's, or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT.***
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Worker's Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the *County of Orange, its elected and appointed officials, officers, agents and employees* or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN CONTRACT.***

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

If Contractor's Technology Errors & Omissions is a "Claims-Made" policy(ies), Contractor shall agree to maintain coverage for two (2) years following the completion of the Contract.

The Commercial General Liability policy shall contain a severability of interests' clause, also known as a "separation of insured's" clause (standard in the ISO CG 001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in

insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

- Q. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials, and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph "HH" below, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
- R. **Changes:** Contractor shall make no changes in the work or perform any additional work without County's specific written approval.
- S. **Change of Ownership:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to the assignment of the Contract to the new owners, the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County.
- T. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and Contractor avails himself of any available remedies.
- U. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
- V. **Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "HH" below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnities harmless from all liability, damages, costs, and expenses arising from or related to a violation of such laws.
- W. **Freight (F.O.B. Destination):** Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- X. **Pricing:** The Contract price shall include full compensation for providing all required goods in

accordance with required specifications, or services as specified herein or when applicable, in the Scope of Work attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.

- Y. **Waiver of Jury Trial: Intentionally left blank.**
- Z. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
- AA. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
- BB. **Severability:** If any term, covenant, condition, or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- CC. **Calendar Days:** Any reference to the word "day" or "days" herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
- DD. **Attorney Fees:** In any action or proceeding to enforce or interpret any provisions of this Contract, or where any provisions hereof is validly asserted as a defense, each Party shall bear its own attorney's fees, costs and expenses.
- EE. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.
- FF. **Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.
- GG. **Employee Eligibility Verification:** Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- HH. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing

Board ("County Indemnities"), harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnities, Contractor and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

- II. **Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of contractor for the purpose of auditing or inspecting any aspect of performance under this contract. The inspection and/or audit will be confined to those matters connected with the performance of the contract including, but no limited to, the costs of administering the contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this contract.

Should the contractor cease to exist as a legal entity, the contractor's records pertaining to this agreement shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's project manager.

Additional Terms and Conditions

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which County will procure and receive goods/services from Contractor as set forth in the Scope of Work, which is attached hereto as Attachment A and incorporated by this reference.
2. **Term of Contract:** This Contract shall commence upon execution of all necessary signatures, and shall be effective starting on June 19, 2017 for three (3) years from that date, unless otherwise terminated by County. The Contract may be renewed for two (2) additional one (1) year terms, upon mutual agreement of both Parties. Each renewal of this Contract may require approval by the County Board of Supervisors. The County does not have to give reason if it elects not to renew.
3. **Precedence:** The Contract documents will consist of this Contract including its Attachments, and Exhibits. In the event of a conflict between the Contract documents, the order of precedence shall be this Contract, then the Attachments and Exhibits.
4. **Fiscal Appropriations:** This Contract is subject to and contingent upon applicable budgetary appropriations being made by the County's Board of Supervisors for each year during the term of this Contract. If such appropriations are not forthcoming, the Contract will be terminated without penalty. Contractor acknowledges that funding or portions of funding for this Contract may also be contingent upon the receipt of funds from, and/or appropriation of funds by, the state of California to County. If such funding and/or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
5. **Conflict of Interest (Contractor):** Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that result in a conflict with the best interest of County. This

obligation shall apply to Contractor, Contractor's employees, agents, relatives, sub tier contractors and third parties associated with accomplishing the work hereunder.

Contractor's efforts shall include, but not be limited to, establishing precautions to prevent its employees or agents from making, receiving, providing, or offering gifts, entertainment, payments, loans, or other considerations which could be deemed to appear to influence individuals to act contrary to the best interest of County.

6. **Contractor Work Hours and Safety Standards:** Contractor shall ensure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and County safety and health regulations and laws.

7. **County and Contractor Project Manager:** County shall appoint a project manager to act as liaison between County and Contractor during the term of this Contract. County's project manager shall coordinate the activities of County staff assigned to work with Contractor.

Contractor shall appoint a project manager to direct Contractor's efforts in fulfilling Contractor's obligations under this Contract. Contractor's project manager shall be subject to approval by County and shall not be changed without the written consent of County's project manager. County's project manager shall have the right to require the removal and replacement of Contractor's project manager from providing services to County under this Contract. County's project manager shall notify Contractor in writing of such action. Contractor shall accomplish the removal within fourteen (14) calendar days after written notice by County's project manager. County is not required to provide any reason, rationale or factual information in the event it elects to request the removal of Contractor's project manager from providing services to County under this Contract.

8. **Contractor Personnel:** In addition to the rights set forth in paragraph 7, County's project manager shall have the right to require the removal and replacement of any of Contractor's personnel from providing services to County under this Contract. County's project manager shall notify Contractor's project manager in writing of such action. Contractor shall accomplish the removal of the specified personnel within one (1) calendar day after written notice by County's project manager. County is not required to provide any reason, rationale or factual information in the event it elects to request the removal of any of Contractor's personnel from providing services to County under this Contract.

9. **Orderly Termination:** After receipt of a termination notice from County, Contractor shall submit to County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than sixty (60) days from the effective date of the termination, unless one or more extensions in writing are granted by County upon written request of Contractor. Upon termination County agrees to pay Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation plus previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each party will assist the other party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each party.

10. **Reprocurement Costs:** In the case of default by Contractor, County may procure the service from other sources and, if the cost is higher, Contractor will be held responsible to pay County the difference between the Contract cost and the price paid. County may make reasonable efforts to obtain the prevailing market price at the time such goods and services are rendered. This is in addition to any other remedies available under law.

11. **County of Orange Child Support Enforcement (Exhibit 1 – Blank County of Orange Child Support Enforcement Certification Requirements Form):** In order to comply with the child support enforcement requirements of County, within ten (10) days of notification of

selection of award of Contract but prior to official award of Contract, the selected Contractor agrees to furnish the required Contractor data and certifications to the agency/department deputy purchasing agent.

Failure of Contractor to timely submit the data and/or certifications required may result in the Contract being awarded to another contractor. In the event a Contract has been issued, failure of the Contractor to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within sixty (60) calendar days of notice from County shall constitute grounds for termination of the Contract.

12. **Authorization Warranty:** Contractor represents and warrants that the person executing this Contract on behalf of and for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation of this Contract and that all requirements of Contractor have been fulfilled to provide such actual authority.
13. **Notices:** Any and all notices permitted or required to be given hereunder shall be deemed duly given (1) upon actual delivery, if delivery is by hand; or (2) upon delivery by the United States mail if delivery is by postage paid registered or certified return receipt requested mail. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Parties may designate from time to time.

For Contractor:

Computrition, Inc.
8521 Fallbrook Avenue, Suite 100
West Hills, CA 91304-3236
Attn: Kim Goldberg, Chief Administrative Officer
Ph: (800) 222-4488

For County:

County of Orange
Sheriff-Coroner Department/Purchasing Services Unit
320 N. Flower Street, 2nd Floor
Santa Ana, CA 92703
Attn: Monica Rodriguez, Buyer
Ph: 714-834-6318
Fx: 714-834-6697

14. **Correspondence to Buyer – Contract:** Any correspondence related to the terms, prices and conditions of this contract must be directed to the agency/department purchasing division to the attention of the assigned buyer. Correspondence not directed through the buyer for resolution will not be regarded as valid.
15. **Data – Title to:** All materials, documents, data or information obtained from County data files or any County medium furnished to Contractor in the performance of this Contract will at all times remain the property of County. Such data or information may not be used or copied for direct or indirect use by Contractor after completion or termination of this Contract without the express written consent of County. All materials, documents, data or information, including copies, must be returned to County at the end of this Contract.
16. **Usage:** No guarantee is given by County to Contractor regarding usage of this Contract. Usage figures, if provided, are approximate, based upon the last usage. Contractor agrees to supply services and/or commodities requested, as needed by County, at prices listed in the Contract, regardless of quantity requested.

17. **Contractor's Records:** Contractor shall keep an accurate record of time expended by Contractor in the performance of this Contract. Such record shall be available for periodic inspection by County at reasonable times. Such records will be retained for three (3) years after the expiration or termination of this Contract.
18. **Disputes-Contract:** A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by Contractor's project manager and County's project manager, such matter shall be brought to the attention of the County's Purchasing Agent by way of the following process:
- a. Contractor shall submit to the agency/department Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless County, on its own initiative, has already rendered such a final decision.
 - b. Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which Contractor believes County is liable.

B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of County shall be expressly identified as such, shall be in writing, and shall be signed by the County Purchasing Agent or his designee. If County fails to render a decision within ninety (90) days after receipt of Contractor's demand, it shall be deemed a final decision adverse to Contractor's contentions. County's final decision shall be conclusive and binding regarding the dispute unless Contractor commences action in a court of competent jurisdiction.

19. **Substitutions:** Contractor is required to meet all specifications and requirements contained herein. No substitutions will be accepted without prior County written approval.
20. **Policies and Procedures:** Contractor, its subcontractors, the Contractor personnel, and all other agents and representatives of Contractor, will at all times comply with and abide by all Information Technology (IT) policies and procedures of the County that are provided or made available to Contractor that reasonably pertain to Contractor (and of which Contractor has been provided with advance notice) in connection with Contractor's performance under this contract including, but not limited to. Contractor shall cooperate with the County in ensuring Contractor's compliance with the IT policies and procedures described in this contract and as adopted by the County from time-to-time, and any material violations or disregard of such IT policies or procedures shall, in addition to all other available rights and remedies of the County, be cause for termination of this contract. In addition to the foregoing, Contractor shall comply with the following:
- a. **Security and Policies:** All performance under contract, shall be in accordance with the County's security requirements, policies and procedures as set forth above and as modified, supplemented or replaced by the County from time to time, in its sole discretion, by providing Contractor with a written copy of such revised requirements, policies or procedures reasonably in advance of the date that they are to be implemented and effective (collectively, the "Security Policies"). Contractor shall at all times use industry best practices and methods with regard to the prevention, detection and elimination, by all appropriate means, of fraud, abuse and other inappropriate or unauthorized access to County systems accessed in the performance of services in this contract.

- b. Information Access:** The County may require all Contractor personnel performing services under this contract to execute a confidentiality and non-disclosure agreement concerning access protection and data security in the form provided by County. The County shall authorize, and Contractor shall issue, any necessary information-access mechanisms, including access IDs and passwords, and in no event shall Contractor permit any such mechanisms to be shared or used by anyone other than the individual Contractor personnel to whom issued. Contractor shall provide each Contractor personnel with only such level of access as is required for such individual to perform his or her assigned tasks and functions. All County systems, and all data and software contained therein, including County data, County hardware and County software, used or accessed by Contractor: (a) shall be used and accessed by such Contractor solely and exclusively in the performance of their assigned duties in connection with, and in furtherance of, the performance of Contractor's obligations hereunder; and (b) shall not be used or accessed except as expressly permitted hereunder, or commercially exploited in any manner whatsoever, by Contractor, at any time.
- c. Enhanced Security Procedures:** The County may, in its discretion, designate certain areas, facilities or systems as requiring a higher level of security access control. The County shall notify Contractor in writing reasonably in advance of such designation becoming effective. Any such notice shall set forth in reasonable detail the enhanced security or access-control procedures, measures, or requirements that Contractor shall be required to implement and enforce, as well as the date on which such procedures and measures shall take effect. Contractor shall fully comply with and abide by all such enhanced security and access measures and procedures as of such date.
- d. Breach of Security:** Any breach or violation by Contractor of any of the foregoing shall be deemed a material breach of a material obligation of Contractor under this contract and may be deemed an incurable and material breach of a material obligation of Contractor under this Contract resulting in termination.
- e. Conduct on County Premises:** Contractor shall, at all times, comply with and abide by all reasonable policies and procedures of the County (or that may be established thereby, from time to time) that pertain to conduct on the County's premises, possession or distribution of contraband, or the access to, and security of, the Party's real property of facilities, to the extent that the Contractor has been provided with a copy of each such policy or procedure. Contractor shall exercise due care and diligence to prevent any injury to persons or damage to property while on the other Party's premises. The operation of vehicles by either Party's personnel on the other Party's property shall conform to posted and other applicable regulations and safe-driving practices. Vehicular accidents occurring on a Party's property and involving either Party's personnel shall be reported promptly to the appropriate Party's personnel. Each Party covenants that at all times during the term, it, and its employees, agents, and Subcontractors shall comply with, and take no action that results in the other Party being in violation of, any applicable federal, state, and local laws, ordinances, regulations and rules. Each Party's personnel shall clearly identify themselves as the appropriate Party's personnel and not as employees of the other Party. When on the other Party's premises, each Party's personnel shall wear and clearly display identification badges or tags, as approved by the other Party.
- f. Security Audits:** Each contract year, County may perform or have performed security reviews and testing based on an IT infrastructure review plan. Such testing shall ensure all pertinent County security standards as well as any customer agency requirements, such as federal tax requirements or HIPPA.

21. Security Requirements:

- a. Contractor shall, with respect to all employees of Contractor performing services hereunder:

1. Perform background checks as to past employment history.
 2. Inquire as to past criminal felony convictions.
 3. Ascertain that those employees who are required to drive in the course of performing services hereunder have a valid California driver's license and no DUI convictions within two (2) years prior to commencement of service hereunder.
 4. Perform drug screening to determine that such employees are not users of illegal drugs or other substances.
- b. Contractor shall not assign to County property any Contractor personnel as to whom the foregoing procedures indicate:
1. Inability or unwillingness to perform in competent manner.
 2. Past criminal convictions for theft, burglary or conduct causing property damage or mental or physical harm to persons.
 3. Where such employee's duties include driving a vehicle, absence of a valid of a California driver's license or a DUI conviction within the prior two (2) years.
 4. Usage of illegal drugs or other substances.
- c. If any of the problems identified with respect to Contractor's employees are discovered after assignment of an employee to County property, or if County otherwise reasonably deems an assigned employee unacceptable, Contractor shall remove and replace such employee at the County property.
- d. Nothing herein shall render any employee of Contractor an employee of the County.

THE CONTRACTOR'S PERSONNEL REQUIREMENTS:

All employees must pass the County's background check and meet all requirements as set forth below:

1. All personnel to be employed in performance of work under this Contract shall be subject to background checks. Clearance must be updated and renewed every twelve (12) months from original date of clearance.
2. No person shall be employed on this work that has not received prior clearance from the Sheriff-Coroner Department.
3. Within fifteen (15) days of the effective date of this Contract, Contractor shall prepare and submit a complete and accurate "Contractor Security Clearance" information form for all Contractor's employee who will be working on or who will need access to the Sheriff-Coroner facilities to perform work covered by this Contract. County project manager shall provide form(s) to Contractor's project manager. Contractor is also responsible for ensuring that anytime an employee is assigned to work on Sheriff-Coroner's facilities under this contract that a Security Clearance form is submitted and approved prior to that employee requiring access to such premises for providing services under this Contract.
4. Contractor shall be responsible for ensuring to submit updated Security Clearance forms in order to renew the Security Clearance. Updated forms shall be submitted at least ten (10) County working days prior to the expiration of an existing clearance; a security clearance is valid for 12 months from the date of issuance.
5. Contractor Security Clearance information forms must be submitted on the original Sheriff-Coroner's printed form. Facsimile or photocopy forms will not be accepted.
6. Contractor Security Clearance information forms will be provided by County Project Manager upon request and will be screened by the Sheriff-Coroner's

Department.

7. Contractor Security Clearance information forms shall be thoroughly and accurately completed. Omissions or false statements, regardless of the nature or magnitude, may be grounds for denying clearance.
 8. County will not give Contractor the reason an individual's clearance is denied, but will provide explanation to individual affected via U.S. Mail.
- e. GENERAL SECURITY REQUIREMENT-AT WORKSITE:
1. All work areas shall be secured prior to the end of each workday.
 2. Workmen shall have no contact, either verbal or physical, with inmates in the facility. Specifically:
 - a. Do not give names or addresses to inmates.
 - b. Do not receive any names or addresses from inmates.
 - c. Do not disclose the identity of any inmate to anyone outside the facility.
 - d. Do not give any materials to inmates.
 - e. Do not receive any materials from inmates (including materials to be passed to another individual or inmate).
 3. Contractor's personnel shall not smoke or use profanity or other inappropriate language while on site.
 4. Contractor's personnel shall not enter the facility while under the influence of alcohol, drugs or other intoxicants and shall not have such materials in their possession.
 5. Failure to comply with these requirements is a criminal act and can result in prosecution.
 6. Contractor's personnel shall plan their activities to minimize the number of times they must enter and exit a facility, i.e., transport all tools, equipment, and materials needed for the day at the start of work and restrict all breaks to the absolute minimum.
 7. Contractor's personnel shall follow any special security requirements issued by the on-site contact person or escort Deputy.
 8. Contractor's personnel shall report either to the on-site contact person when leaving the facility, temporarily or at the end of the workday.
 9. Contractor's personnel shall immediately report all accidents, spills, damage, unusual conditions and/or unusual activities to the one-site contact person or any Sheriff's Deputy.
 10. Contractor's personnel shall securely close and check all gates and doors to ensure that they are tightly closed and locked.
 11. Contractor's personnel shall restrict all activities to the immediate work site and adjacent assigned areas.
 12. Contractor's personnel shall remain with the assigned escort at all times, unless otherwise directed by the on-site contact person.
- f. POTENTIAL DELAYS/INTERRUPTIONS:
1. Contractor shall acknowledge that the primary purpose of the detention facilities is the safe and secure operation of those facilities.
 2. Contractor's personnel who enter a Sheriff facility but have not passed security

screening or who have falsified the security screening information are subject to immediate removal from the facility. Contractor's personnel who are assigned to work in a Sheriff facility who are determined to have outstanding warrants may be detained by the Sheriff.

3. Contractor's personnel shall immediately comply with all directions and orders issued by Sheriff's personnel, other than changes regarding the quality or quantity of work, which will be controlled by County's project manager.
4. Contractor's personnel may be delayed or denied access to the facility due to unforeseen events that may affect the availability of security escorts.
5. Contractor's personnel may be ordered to leave a facility prior to the completion of their work or the end of the workday by unforeseen incidents occurring within secure environments. Such unforeseen incidents may also cause Contractor's personnel to be held inside the facility until the incident is resolved by the Sheriff's personnel.
6. Contractor may be subject to an inventory requirement where the Contractor shall supply an inventory list of all tools. The Facility will use this list for verification of tools entering and exiting security. Any and all time required to comply with the tool inventory and control program will not be considered a compensable delay and no requests for equitable adjustment in time or additional compensation for this time will be considered.

-Signature Page to Follow-

Signature Page

The Parties hereto have executed this Contract # MA-060-17011453 for Automated Food Services System Software "AFSS" Maintenance and Support on the dates shown opposite their respective signatures below.

Contractor*: Computrition, Inc.

By: Matt Otchet Title: CEO
Print Name: Matt Otchet Date: April 17, 2017

Contractor*: Computrition, Inc.

By: Kim Goldberg Title: Chief Administrative Officer
Print Name: Kim Goldberg Date: April 14, 2017

**If the contracting party is a corporation, (2) two signatures are required: (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision.*

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County Of Orange

A political subdivision of the State of California



Sheriff-Coroner Department

By: [Signature] Title: Sheriff-Cor.
Print Name: W. H. Torres Date: 6/1/17

Approved by the Board of Supervisors: 5/23/17

Approved as to Form
Office of the County Counsel
Orange County, California

By: [Signature]
Deputy

Signature Page

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Print Name: Kim Goldberg Date: April 14, 2017

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In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County Of Orange

A political subdivision of the State of California



Sheriff-Coroner Department

By: _____ Title: _____
Print Name: _____ Date: _____

Approved by the Board of Supervisors: _____

Approved as to Form
Office of the County Counsel
Orange County, California

By: _____
Deputy

ATTACHMENT A

Scope of Work

Contractor shall provide County with Annual Maintenance and Support for the following Software License:

Software Name and Version	Users
Hospitality Suite – Foodservice Operations Management (FOM) Pro (Release 18.2)	15 Concurrent Users
Oracle 11G (Version 11.2.0.2)	30 Named Users
Oracle Security Auditing Module	NA
Extended Interface Support	NA
Oracle DBA	NA

I. SCOPE OF SERVICES:

- A. Direct primary support regarding the use and operation of the Software via a toll-free 800 telephone number will be available from 6:00 a.m. to 6:00 p.m. Pacific Time, Monday through Friday, except for Thanksgiving Day, Christmas Day, New Year's Day and July 4th (as adjusted to reflect national observances). Contractor will respond to all request for Support Services within four (4) business hours following receipt of the support request. In instances in which problems with the Software products have rendered the system inoperable, Contractor will respond to the support request within one (1) hour following receipt of request.
- B. Severity Levels will be assigned by Contractor support staff when a call is received and/or County is contacted and an explanation of the issue has been submitted by the County. Users may submit their issue a variety of ways – via the 800 toll-free number, email and/or on-line support website, www.support.computrition.com. Contractor will escalate issue based upon the ability to remediate the issue and its Severity level as outlined below:

1. Severity 1

The problem causes complete loss of application functionality. Work cannot reasonably continue, the operation is mission critical to the business and the situation is an emergency. A Severity 1 problem has one or more of the following characteristics:

- Data corrupted
- A critical function is not available
- System hangs indefinitely, causing unacceptable or indefinite delays for resources or response
- System crashes and crashes repeatedly after restart attempts

2. Severity 2

The problem causes a severe loss of service. No acceptable workaround is available; however, operation can continue in a restricted fashion

3. Severity 3

The problem causes minor loss of service. The impact is an inconvenience, which may require a workaround to restore functionality.

4. Severity 4

The problem causes no loss of service. The result is a minor error, incorrect behavior, or a documentation error that does not impede the operation of a system.

C. Contractor Internal Escalation Plan:

1. Level 1

The first line of support provides support services to the County and provides for support within the times allotted for in this contract. These calls will be handled by support staff that is trained to answer the majority of issues that they may come across.

2. Level 2

If, after the time allotted to a specific service level passes, and internal notification to a support coordinator or manager is made in order to escalate the issue and provide an action plan to the County for steps necessary in getting the County either a fix to the problem, or a solution and timeline.

3. Level 3

If a Support Services coordinator or manager cannot see a solution or course of action for the County within 24 hours of the time the incident was reported, a Vice President will be notified to the issue and an assessment of the situation will be made.

Support can be provided remotely on the telephone, and in more complex issues, with the use of a variety of VPN/Dial-up and other remote access solutions. Contractor will utilize tools such as Cisco VPN, Nortel VPN, Secure ID, PC Anywhere, Citrix Metaframe and Terminal Services, all depending upon County standards.

Contractor's Customer Service Team will meet on a daily basis to review all issues from the previous day. Weekly meetings will also be conducted to review the prior week's number of calls, call types, etc. Contractor will provide the County with the best software and services.

D. Staffing:

Contractor shall provide adequate staff to perform the services listed in this Contract in a manner satisfactory to the County.

E. Contractor AFSS Manual:

Contractor shall maintain a comprehensive AFSS manual designed to document the AFSS functions, guide trained users and train future users as well as provide technical specifications to allow AFSS management by County staff. Manuals and documentation provided shall include the Hospitality Suite User manual, the Hospitality Suite Administration manual and the Hospitality Suite HACCP manual; all of which are available on-line.

F. Upgrades for Sustainability:

Contractor shall offer customized modifications and enhancements to Computrition AFSS at current cost or current license pricing and Contractor will provide modifications or upgrades to Computrition AFSS to retain compatibility with future Microsoft Office products. Hospitality Suite upgrades or modifications shall be deployed to the County via a CD or other desired media.

G. Software Maintenance and Support:

Contractor shall respond to the initial request for Software support services no later than one (1) hour after initial contact, and services shall be provided within four (4) hours' notice during regular working hours.

- Unlimited toll free customer support will be available via toll free support line into the call center. The cost is included in the Annual License Subscription Fees for support services.

This service provides remote Oracle database administration needs for the County's operation, and includes 24X7X365 access to Contractor's staff of Certified Oracle DBAs

The following are part of this service:

- Monitoring of Oracle database
- Periodic performance analysis
- Oracle emergency support
- Reporting and resolving all serious Oracle alert log messages
- Proactive Database Management
- Team support from professional DBAs
- Oracle software upgrades and migrations
- Backup and Recovery support
- Monitoring of the database environment
- Immediate response to any database emergency
- Same day response to any database non-emergency
- Regular monitoring of daily maintenance jobs
- Space monitoring
- Reporting and resolving all serious database alert log messages
- Managing and maintaining daily scheduled backups
- Performance tuning and space optimization available on an as needed basis, at an additional fee

Computrition's requirements:

- VPN Access to database
- Current Oracle Technical Support Contract
- OS Level Privileges

L. Computrition Oracle Database Maintenance (Alert Notification):

Contractor provides automated database maintenance. This service offers automatic email alert notification. Contractor has developed a series of scripts (batch processes) to accommodate many of the tasks that must be performed on a regular basis. The batch processes are controlled (automated) using the Microsoft Scheduled Tasks feature of Windows.

The following are part of this service:

- Schema (Database) Exports
- Database Backups
 - Hot Backups (online)
 - Cold Backups (offline)
- Log File Management
 - Oracle Alert
 - Oracle Trace
 - Online Archive Log
 - Listener Control Logs
 - SQL*Net
- Cleanup of Obsolete Export Files
- Scanning of the Alert Log for Errors
- Disk Space Monitoring

Automating these processes will ensure that critical data is being backed up both properly and regularly.

M. Standard Interface Application Support:

Interface Application Support is related to the specific features and functionality of Contractor Interface applications. This support level covers the actual use of the Contractor application

and remediation of problems that arise within the software. Update installation support is covered under this support level, as are data problem identification, and general system use.

- Telephone Support during standard hours 6:00 a.m. to 6:00 p.m. (Pacific Time), Monday through Friday, except for Thanksgiving Day (USA), Christmas Day, New Year's Day and July 4th.
- Remote Support Accessibility via VPN

N. Enhanced 24X7 Interface Support:

Interface Application Support is related to the specific features and functionality of Contractor Interface applications. This support level covers the actual use of the Contractor application and remediation of problems that arise within the software. Update installation support is covered under this support level, as are date problem identification, and general system use.

- Telephone Break/Fix Support 24X7
- Remote Support Accessibility via VPN

II. **SERVICE LOCATION:**

1. **Sheriff's Commissary Warehouse**
1530 S. State College Blvd.
Anaheim, CA 92806

ATTACHMENT B**Pricing**

Year One Cost	
Annual Software Maintenance Fee (includes Annual Maintenance Fee \$25,290.62) ; Computrition Oracle Audit \$817.82; 24/7 Computrition Support \$9,450(non-taxable); Oracle DBA 24/7 \$16,640 (non-taxable) and Oracle Annual License (30 Named Users) \$1,777.78	Not to Exceed \$56,137.40
Year Two Cost	
Annual Software Maintenance Fee (includes Annual Maintenance Fee \$26,049.34); Computrition Oracle Audit \$842.35; 24/7 Computrition Support \$9,450(non-taxable); Oracle DBA 24/7 \$16,640 (non-taxable) and Oracle Annual License (30 Named Users) \$1,831.11	Not to Exceed \$57,038.82
Year Three Cost	
Annual Software Maintenance Fee (includes Annual Maintenance Fee \$26,830.82); Computrition Oracle Audit \$867.63; 24/7 Computrition Support \$9,450(non-taxable); Oracle DBA 24/7 \$16,640 (non-taxable) and Oracle Annual License (30 Named Users) \$1,886.05	Not to Exceed \$57,967.29
Year Four Cost If Renewed	
Annual Software Maintenance Fee (includes Annual Maintenance Fee \$27,635.74); Computrition Oracle Audit \$893.65; 24/7 Computrition Support \$9,450(non-taxable); Oracle DBA 24/7 \$16,640 (non-taxable) and Oracle Annual License (30 Named Users) \$1,942.63	Not to Exceed \$58,923.61
Year Five Cost If Renewed	
Annual Software Maintenance Fee (includes Annual Maintenance Fee \$28,464.82); Computrition Oracle Audit \$908.00; 24/7 Computrition Support \$9,450(non-taxable); Oracle DBA 24/7 \$16,640 (non-taxable) and Oracle Annual License (30 Named Users) \$2,000.91	Not to Exceed \$59,895.19

ATTACHMENT C
Compensation and Pricing Provisions

This is a fixed fee Contract between County and Contractor for goods and services provided in Attachment A, Scope of Work. Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for services.

1. Pricing

Pricing set forth in Attachment B shall be firm unless approved in writing by both Parties.

2. Payment Terms

Contractor shall submit a yearly invoice at the beginning of every year for the annual rate amount as described in Attachment B of this Contract. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services and/or goods not previously invoiced. Contractor shall reimburse County for any monies paid to Contractor for goods or services not provided or when goods or services do not meet the Contract requirements. Payments made by County shall not preclude the right of County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

Contractor shall reference Contract number on invoice. Payment will be net thirty (30) days after receipt of an invoice in a format acceptable to County and verified and approved by the Sheriff-Coroner Department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

3. Payment - Electronic Funds Transfer (EFT)

The County of Orange offers Contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County of Orange via an EFT Authorization Form. To request a form, please contact the agency/department representative listed in the bid. Upon completion of the form, please mail, fax or email to the address or phone listed on the form.

4. Invoicing Instructions:

Payments and/or invoices are to be sent to:

County of Orange
Sheriff-Coroner Department
Commissary
1530 S. State College Blvd,
Anaheim, CA 92806
Attn: Accounts Payable

Contractor will provide an invoice for services rendered, not more frequently than monthly. Each invoice will have a number and shall include the following information:

1. Contractor's name and address
2. Contractor's remittance address

3. County Contract number
4. Contractor's Tax I.D. number
5. Date of Order
6. Product description, quantity, prices
7. Sales tax, if applicable
8. Brief description of services

5. Year End and Final Invoices

At the end of each term of the Contract, and upon final termination, Contractor shall submit final invoices for services rendered or goods accepted by County under the Contract term (typically one year) within ninety (90) days. For example, if the term of a Contract ends, or the Contract expires without being renewed on June 30th, any and all invoices for services rendered or goods accepted by County during the preceding term of the Contract shall be submitted to County on or before September 28. In the event the ninetieth (90th) day falls on a weekend or County holiday, the deadline for submission of invoices shall be extended to the next business day. County holidays include New Year's Day, Martin Luther King Day, President Lincoln's Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

Contractor's failure to submit invoices pursuant to the deadlines established herein may be deemed a breach and shall be a basis for the County to refuse payment.

EXHIBIT 1**CHILD SUPPORT ENFORCEMENT REQUIREMENTS**

In order to comply with child support enforcement requirements of the County the required Contractor data and certifications must be submitted within 10 days of notification of award.

Failure of a bidder to submit the data and/or certifications required above shall result in the bid being deemed non-responsive and the bidder may be disqualified from being considered for Contract award. Subsequent to issuance of the Contract, failure to comply with all federal and state reporting requirements for Child Support Enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

The certifications will be stated as follows:

*"I certify that **Computrition, Inc.** is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract **MA-060-17011453** with the County of Orange. I understand that failure to comply shall constitute a material breach of the Contract and that failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.*

It is expressly understood that this data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders and for no other purposes and will be held confidential by those agencies.

Failure of the Contractor to timely submit the data and/or certifications required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

County of Orange Child Support Enforcement

Contract Certification

INSTRUCTIONS:
 UPON NOTIFICATION OF SELECTION FOR CONTRACT AWARD/REQUEST FOR RENEWAL, **COMPLETE PART I AND PART II.**
 RETURN COMPLETED FORM TO: SHERIFF-CORONER DEPARTMENT/PURCHASING SERVICES BUREAU, 320 N. FLOWER ST., SANTA ANA, CA 92703.

PART I

A. In case of an individual contractor, provide:
 His/her name, date of birth, Social Security number, and residence address:

B. In the case of contractor doing business in a form other than as an individual, provide:
 The name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity; OR

C. *If your firm is a non-profit entity please indicate: "N/A, Non-Profit Organization" **OR** If no single person owns an interest of 10 percent or more please state this fact below.

(Please note: Part II "Certification" must also be signed and returned)

1. Name: _____
 D.O.B. _____
 SSN No: _____
 Residence Address: _____

2. Name: _____
 D.O.B. _____
 SSN No: _____
 Residence Address: _____

PART II

CERTIFICATION (PART I MUST ALSO BE COMPLETED)

I certify that **Comptrition, Inc.** is in full compliance with all applicable Federal and State reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract Number: **MA-060-17011453** with the County of Orange.

I understand that failure to comply shall constitute a material breach of the contract and the failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract.

AUTHORIZED SIGNATURE

Kim Goldberg

PRINTED NAME

Kim Goldberg

TITLE

Chief Administrative Officer

AMENDMENT NUMBER ONE
TO
CONTRACT MA-060-17011453
BETWEEN THE
COUNTY OF ORANGE
AND
COMPUTRITION, INC.

This AMENDMENT NUMBER ONE to Contract number MA-060-17011453 (hereinafter "AMENDMENT NUMBER ONE") between the County of Orange, a political subdivision of the State of California, operating through its Sheriff-Coroner Department (hereinafter "COUNTY"), and Computrition, Inc., (hereinafter referred to as "CONTRACTOR") with a place of business at 8521 Fallbrook Ave., Suite 100, West Hills, CA. 91304, is made and entered upon execution of all necessary signatures.

RECITALS:

WHEREAS, COUNTY and CONTRACTOR executed Contract number MA-060-17011453 for Automated Food Services System Software "AFSS" Maintenance and Support on June 1, 2017 (hereinafter "ORIGINAL CONTRACT"), for a three (3) year term of June 19, 2017 through and including June 18, 2020, renewable for two (2) additional one-year terms; and

WHEREAS, COUNTY desires to renew the ORIGINAL CONTRACT, as Contract number MA-060-20011239 in the amount of \$57,960.69 for a one (1) year term of June 19, 2020 through and including June 18, 2021 and to amend the ORIGINAL CONTRACT, General Terms and Conditions, Paragraph S, Change of Ownership and revise ATTACHMENT B, Pricing reducing the Contract annual not to exceed amount for Year Four and Year Five and the CONTRACTOR has agreed to provide those services as set forth in AMENDMENT NUMBER ONE;

NOW THEREFORE, in consideration of the mutual obligations set forth herein, both COUNTY and CONTRACTOR agree as follows:

1. ARTICLES

- a. General Terms and Conditions, Paragraph S, Change of Ownership of the ORIGINAL CONTRACT is amended to read in its entirety as follows:

Change of Ownership/Name, Litigation Status, Conflict with County Interests: Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and Contractor obligations contained in this Contract and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

- b. Additional Terms and Conditions, Section 2 – Term of Contract, of the ORIGINAL CONTRACT is amended to read in its entirety as follows:

2. Term of Contract:

This Contract shall commence upon execution of all necessary signatures, and continue in effect from 6/19/17 through and including 6/18/21, unless otherwise terminated by COUNTY. The period of 6/19/17 through and including 6/18/20 shall be known as Contract number MA-060-17011453. The period of 6/19/20 through and including 6/18/21 shall be known as Contract number MA-060-20011239. Contract may be renewed for one (1) additional one (1) year term, upon mutual written agreement of both Parties.

The COUNTY is not under any obligation to provide CONTRACTOR with a reason should it elect not to renew this Contract, nor is it required to give CONTRACTOR prior notice of its intent not to renew.

- c. ATTACHMENT B, Pricing of the ORIGINAL CONTRACT is amended in its entirety to read as follows:

ATTACHMENT B

Pricing

Year Four Cost		
Annual Software Maintenance Fee (includes Annual Maintenance Fee \$27,635.74); 24/7 Computrition Support \$9,450(non-taxable); Oracle DBA 24/7 \$16,640 (non-taxable) and Oracle Annual License (30 Named Users) \$1,942.63	Taxable Amount	\$27,635.74
	Taxable Amount	\$1,942.63
	CA. Sales Tax (7.75%)	2,292.32
	Non-taxable Amount	\$9,450
	Non-taxable Amount	\$16,640
	Not to Exceed Amount	\$57,960.69

Year Five Cost If Renewed		
Annual Software Maintenance Fee (includes Annual Maintenance Fee \$28,464.82); 24/7 Computrition Support \$9,450(non-taxable); Oracle DBA 24/7 \$16,640 (non-taxable) and Oracle Annual License (30 Named Users) \$2,000.91	Taxable Amount	\$28,464.82
	Taxable Amount	\$2,000.91
	CA. Sales Tax (7.75%)	\$2361.09
	Non-taxable Amount	\$9,450
	Non-taxable Amount	\$16,640
	Not to Exceed Amount	\$58,916.82

Orange County sales and district taxes are authorized to be paid against this Contract.

Year Four Contract period of June 19, 2020 through and including June 18, 2021 shall have a Contract not to exceed amount of \$57,960.69

Year Five Contract period of June 19, 2021 through and including June 18, 2022 shall have a Contract not to exceed amount of \$58,916.82

2. A true and correct copy of the ORIGINAL CONTRACT (Contract number MA-060-17011453 is attached hereto as Exhibit A and incorporated herein by this reference.
3. All other provisions of the ORIGINAL CONTRACT except as amended herein and to the extent they are not inconsistent with this AMENDMENT NUMBER ONE, remain in full force and effect.

(Signature Page Follows)

IN WITNESS WHEREOF, the Parties have executed this AMENDMENT NUMBER ONE to Contract number MA-060-17011453.

*Contractor: Computriton, Inc.

By: Eric Lipsitt Title: President
Print Name: Eric Lipsitt Date: March 25, 2020

*Contractor: Computriton, Inc.

By: Jeff MacKinnon Title: CFO
Print Name: Jeff MacKinnon Date: 03/27/2020

**If the contracting party is a corporation, (2) two signatures are required: (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision.*

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County Of Orange

A political subdivision of the State of California



Sheriff-Coroner Department

By: Eric Gregory Title: PCS
Print Name: Eric Gregory Date: 5/28/20

Approved by the Board of Supervisors: BOS RESO 3.26.20 MAY 7, 2020

Approved as to Form
Office of the County Counsel
Orange County, California

By: Wendy J. Phillips
Deputy