



CONTRACT NO. MA-042-13010653

FOR

**SOFTWARE LICENSING, MAINTENANCE AND SUPPORT
SERVICES**

BETWEEN

**THE COUNTY OF ORANGE
HEALTH CARE AGENCY**

AND

DECADE SOFTWARE COMPANY, LLC

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CONTRACT NO. MA-042-13010653

SOFTWARE LICENSING, MAINTENANCE AND SUPPORT SERVICES

This Contract Number MA-042-13010653 (hereinafter "Contract"), is made and entered into this 1st day of February, 2013 or upon execution of all necessary signatures between Decade Software Company, LLC (hereinafter "Contractor"), with a place of business at 1195 W. Shaw Ave., Fresno, CA 93711-3700, and the County of Orange (hereinafter "County"), a political subdivision of the State of California, with a place of business at 200 W. Santa Ana Blvd., Suite #650, Santa Ana, CA 92701, which are sometimes individually referred to as "party", or collectively referred to as "parties".

RECITALS

WHEREAS, the County desires to obtain software licensing, maintenance and support services; and

WHEREAS, the Contractor agrees to render such services per the terms and conditions hereinafter set forth; and

WHEREAS, the County of Orange Board of Supervisors has authorized the Purchasing Agent or designee to enter into Contract with Contractor for obtaining said services; and

NOW, THEREFORE, the parties mutually agree as follows:

ARTICLES

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, when accepted by the Contractor either in writing or by 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 software, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or 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 services is of the essence in this Contract. County reserves the right to refuse any services and to cancel all or any part of the services that do not conform to the prescribed Scope of Work. Delivery shall not be deemed to be complete until all services have actually been received and accepted 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 services have actually been received or inspected to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- 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 by the County of the goods and/or services shall constitute an agreement upon Contractor's part to indemnify, defend with counsel approved in writing by County, and hold County and County indemnitees as identified in paragraph "GG" below, harmless from any and all such claim, liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods and/or services to conform to such warranties, faulty work performance, negligent or unlawful acts, intentional misconduct, or 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 it shall indemnify, defend with counsel approved in writing by County, and hold County and County indemnitees, as identified in paragraph "GG" below, 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 Subcontracting:** 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 subcontract 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.

In the event that the Contractor is authorized by the County to subcontract, this Contract shall prevail and the terms of the subcontract shall be incorporated by reference and not conflict with the terms of this Contract. In the manner in which the County expects to receive services, the County shall look to the Contractor for performance and not deal directly with any subcontractor. All matters related to this Contract shall be handled by the Contractor with the County; the County will have no direct contact with the subcontractor in matters related to the performance of this Contract. All work must meet the approval of the County.

- 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 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 this Contract, or 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 services furnished by the 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 therefor; 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:**
Insurance Provisions
Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense and to deposit with the County Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with and to keep such insurance coverage and the certificates therefore 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.
- All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a zero (0) by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management.
- 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

Minimum insurance company ratings as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States** or **ambest.com** shall be A- (Secure Best's Rating) and VIII (Financial Size Category).

The policy or policies of insurance must be issued by an insurer licensed to do business in the State of California (California Admitted Carrier). If the carrier is a non-admitted carrier in the State of California and does not meet or exceed an A.M. Best rating of A-/VIII, CEO/Office of Risk Management retains the right to approve or reject carrier after a review of the company's performance and financial ratings. If the non-admitted carrier meets or exceeds the minimum A.M. Best rating of A-/VIII, the agency can accept the insurance.

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
Professional Liability Insurance	\$1,000,000 per occurrence

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 0012, CA 00 20, or a substitute form providing coverage at least 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 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds.
2. A primary non-contributing endorsement 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.

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

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.

All insurance policies required by this Contract shall give the County of Orange thirty (30) days' notice in the event of cancellation and ten (10) days for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the Certificate of Insurance.

If Contractor's Professional Liability policy is a "claims made" policy, Contractor shall agree to maintain Professional Liability coverage for two (2) years following completion of Contract.

The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 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 County Procurement Office/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. Bill 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 "GG" 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 the 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, 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 itself 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 "GG" below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
- W. **Pricing:** The Contract amount shall include full compensation for providing all services as specified herein or when applicable, in the Scope of Work attached to this Contract, and no additional compensation shall be allowed therefor, unless otherwise provided for in this Contract.
- X. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
- Y. **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.
- Z. **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.
- AA. **Calendar Days:** Any reference to the word "day" or "days" herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
- BB. **Attorneys Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney's fees, costs and expenses.
- CC. **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 its 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 it has not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing either or both of them. Accordingly, any rule of 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 effect the purpose of the parties and this Contract.

- DD. Authority:** The parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation, enforceable in accordance with its terms.
- EE. Waiver of Jury Trial:** Each party acknowledges that is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury and each party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Contract and/or any other claim of injury or damage.
- FF. Employee Eligibility Verification:** The 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. The 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. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the 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.
- GG. 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 for which County's Board of Supervisors acts as the governing Board ("County Indemnitees") from and against all claims, damages, losses and expenses (except for claims pertaining to infringement of intellectual property rights and warranties, which are separately provided for above) including attorney fees brought by any third party, arising out of any breach of the Contract by Contractor, caused in whole or in part by any negligence, omission, willful misconduct of Contractor, anyone employed by Contractor or anyone for whose acts Contractor may be liable, except to the extent caused by the negligence, omission, or willful misconduct of County, its employees, agents, consultants, subcontractors, or such persons performing work at the direction of County. However, Contractor is not obligated to hold harmless, defend or indemnify County unless County does all of the following:

Notify Contractor of the claims, damages, losses and/or expenses in writing within a reasonable period of time, such that Contractor suffers no prejudice to its rights;

Make no compromise, settlement or admission of liability; and

Provide reasonable assistance and cooperates in the defense of that action.

Contractor's obligations as stated in this section will not apply to any claim, suit or proceeding to the extent it is based on any of the following:

Any modification of the EnvisionConnect software other than by Contractor, or the combination of the software with non-Contractor software or any hardware that fails to comply with the EnvisionConnect hardware and software requirements;

County's use of other than the latest release of the EnvisionConnect software if County is informed that a claim, suit or proceeding can be avoided by use of the latest release;

Any use of the EnvisionConnect software not authorized by this Contract; or

Any modification or derivative work made by Contractor based on County's instructions, designs or specifications.

If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

ADDITIONAL TERMS AND CONDITIONS

1. **Scope of Contract:** This Contract, together with its Attachments and Exhibits attached hereto and incorporated herein by reference, specifies the contractual terms and conditions by which the County will procure and receive services from Contractor. The detailed Scope of Work (SOW) is fully set forth and incorporated herein as Attachment A.
2. **Term of Contract:** This Contract shall be in effect from February 1, 2013 through and including January 31, 2014, renewable for two (2) one-year additional periods. Contract shall be in effect for the time periods specified, unless this Contract is earlier terminated by the parties in accordance with Articles 5, 6, and 7.
3. **Precedence:** The Contract documents consist of this Contract, and its Attachments and Exhibits. In the event of a conflict between the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, the Attachments and then the Exhibits.
4. **Pricing Structure:** The Contractor agrees that no price/fee increases shall be passed along to the County during the term of this Contract. Contractor may discount said prices anytime during the term of the Contract.
5. **Fiscal Appropriations – Subject to:** This Contract is subject to and contingent upon applicable budgetary appropriations being approved by the County of Orange Board of Supervisors for each fiscal year during the term of this Contract. If such appropriations are not approved, the Contract will be terminated without penalty to the County.
6. **Contingency of Funds:** 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.
7. **Termination**
A. Termination – Default: If Contractor is in default of any of its obligations under this Contract and has not commenced cure within ten (10) days after receipt of a written notice of default from County and cured such default within the time specified in the notice, the County shall immediately be entitled to either commence resolution in accordance with this paragraph or to terminate this Contract by giving written notice to take effect immediately. Default shall include failure to carry out any of the requirements of this Contract, including, but not limited to persistently disregarding laws and or ordinances, not proceeding with the work as agreed to herein, or otherwise substantially violating any provision of this Contract. Upon termination of the Contract with Contractor, the County may begin negotiations with a third-party contractor to provide services as specified in this Contract.

The right of either party to terminate this Contract hereunder shall not be affected in any way by its waiver of or failure to take action with response to any previous default.

B. Termination – Orderly: After receipt of a termination notice from the County, the Contractor shall submit to the 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 the County upon written request of the Contractor. Upon termination County agrees to pay the 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. County will cease using the Licensed Materials. Within thirty (30) days after termination for any reason, County will furnish Contractor an affidavit certifying that the original and all copies, in whole or in part, of the Licensed Materials have been returned to Contractor or destroyed by County.

8. **County Project Manager:** The County shall appoint a Project Manager to act as liaison with Contractor during the term of this Contract. The County's Project Manager shall coordinate the activities of the County staff assigned to work with the Contractor.
9. **Contractor Project Manager:** Contractor shall appoint a Project Manager to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. The Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County's Project Manager.

The Contractor's Project Manager shall be assigned to this project for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines. The County's Project Manager shall have the right to require the removal and replacement of the Contractor's Project Manager or any other Contractor's staff providing services to the County under this Contract. The County's Project Manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within three (3) business days after written notice by the County's Project Manager. The County's Project Manager shall review and approve the appointment of the replacement for the Contractor's Project Manager. The County is not required to provide any additional information, reason or rationale in the event it elects to request the removal of Contractor's Project Manager providing services to the County under this Contract.

10. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
 - a. Afford the Contractor written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
 - b. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
 - c. Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
11. **County of Orange Child Support Enforcement (Exhibit 1):** In order to comply with the child support enforcement requirements of the County of Orange, 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 to the contract administrator, the Purchasing Agent, or the agency/department deputy purchasing agent:

- a. In the case of an individual contractor, his/her name, date of birth, social security number, and residence address;
- b. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, social security number, and residence address of each individual who owns an interest of ten (10) percent or more in the contracting entity;
- c. A certification that the contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
- c. A certification that the contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

Failure of the 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, state, and local 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 the County shall constitute grounds for termination of the Contract.

- 12. Conflict of Interest:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor's employees, agents, and relatives; sub-tier contractors; and third parties associated with accomplishing work and services hereunder. The 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 interests of the County.

The County of Orange Board of Supervisors' policy prohibits its public employees from engaging in activities involving conflicts of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.

- 13. Conflict with Existing Law:** The Contractor and the County agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision. Should the offending provision go to the heart of the Contract, the Contract shall be terminated in a manner commensurate with the interests of both parties to the maximum extent reasonable.

14.

- 15. Contractor Bankruptcy/Insolvency:** If the Contractor should be adjudged bankrupt or should have a general assignment for the benefit of its creditors or if a receiver should be appointed on account of the Contractor's insolvency, the County may terminate this Contract.

- 16. Disputes – Contract:** 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 the Contractor and the County's Project Manager, such matter shall be brought to the attention of the Purchasing Agent by way of the following process:

- a. The Contractor shall submit to the agency/department assigned buyer 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 the County, on its own initiative, has already rendered such a final decision.

- b. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the 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 the Contractor believes the County is liable.

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

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the Purchasing Agent or designee. If the County fails to render a decision within ninety (90) days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. The County's final decision shall be conclusive and binding regarding the dispute unless the Contractor commences action in a court of competent jurisdiction to contest such decision within ninety (90) days following the date of the County's final decision or one (1) year following the accrual of the cause of action, whichever is later.

- 16. Notices:** Any and all notices, requests, demands, and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the parties' routine exchange of information and cooperation during the term of the work and services, and shall be deemed to have been duly given (a) upon actual in-person delivery, if delivery is by direct hand; or (b) upon delivery agreed to as the actual day of receipt or no greater than five (5) calendar days after being mailed (the date of mailing shall count as the first day), whichever occurs first by United States certified or registered mail, return receipt requested, postage prepaid, addressed to the appropriate party at the following address or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid:

For Contractor:	Name:	Decade Software Company, LLC
	Address:	1195 W. Shaw Ave. Fresno, CA 93711-3700
	Attn:	Sandra Sanchez, Contractor Project Manager
	Phone:	800-233-9847, ext. 747
	Fax:	559-271-2892
	E-mail:	SandraSanchez@decadesoftware.com

For County:	Name:	County of Orange Health Care Agency/Purchasing
	Address:	200 W. Santa Ana Blvd., Suite #650 Santa Ana, CA 92701
	Attn:	Ana Figueroa
	Title:	Deputy Purchasing Agent
	Phone:	714-834-2170
	Fax:	714-834-2657
	E-mail:	afigueroa@ochca.com

CC:	Name:	County of Orange HCA/Information Technology
	Address:	200 W. Santa Ana Blvd., Ste 1000 Santa Ana, CA 92701
	Attn:	Doug Phan
	Title:	County Project Manager
	Phone:	714-834-7401

Fax: 714-834-3230
E-mail: dougphan@ochca.com

17. **Contractor's Records:** Contractor shall provide services and other relevant documents necessary to complete the services and fulfill the requirements as set forth in Attachment A, SOW. The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from the County. Storage of records in another county will require written approval from the assigned buyer.
18. **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 not 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 (3) 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.
- Should the Contractor cease to exist as a legal entity, the Contractor's Records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's Project Manager.
19. **News / Information Release:** The Contractor agrees that it will not issue any news releases or upload County logos or other information onto any website in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval from the County through the County's Project Manager. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the County unless otherwise agreed to by both parties.
20. **California Public Records Act:** Contractor and County agree and acknowledge that all information and documents related to the award and performance of this Contract are subject to disclosure pursuant to the California Public Records Act, California Government Code Section 6250 *et seq.*
21. **Validity:** The invalidity in whole or in part of any article or provision of this Contract shall not void or affect validity of any other article or provision of this Contract.
22. **Gratuities:** The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County in procuring on the open market any goods or services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the County provided in the

clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

23. Parking: The County shall not provide free parking.

24. Software License: Contractor is the lawful owner or licensee of all proprietary rights whatsoever in the computer programs, in object form, and all related documentation and materials provided to Client under the terms of this Contract ("Licensed Materials") including any changes, additions, and enhancements in the form of new or partial programs or documentation, but not as to limit the generality thereof, all copyright interests in the Licensed Materials. All copies of the Licensed Materials provided to, or reproduced by, the County pursuant to this Contract are, and remain the property of Contractor. No rights in the Licensed Materials are granted to anyone other than those set forth in this Contract. The County shall use its commercially reasonable best efforts to prevent any violations of the Contractor's property rights in the Licensed Materials and shall, under no circumstances, sell, lease, sublease, sublicense, assign, barter, encumber or otherwise transfer the Licensed Materials or use the Licensed Materials for the processing of data for others, except as provided herein. Licensed Materials shall not include Contractor Source Code.

The term "Licensed Programs" shall mean the object code version of the software, as well as all updates, enhancements and releases. Licensed Programs are a sub-set of the Licensed Materials.

All information relating to the County that is clearly marked as confidential or proprietary will be held in confidence by Contractor and will not be disclosed, divulged or used by Contractor at any time during or after the term of this Contract except to the extent that such disclosure or use is reasonably necessary to the performance of Contractor's Work, or as required by law.

The County shall have no right to modify, enhance or otherwise change the Licensed Materials in any way without the prior written consent of Contractor. However the County may merge the Licensed Materials into other materials to form a system, provided that upon termination of the License granted by this Contract, the Licensed Materials will be completely removed from the system and treated as though permission to merge had never been granted. Use of the Licensed Materials in a system shall remain subject to all other terms of this Contract.

The Licensed Materials and all other data or materials supplied by Contractor to County are confidential and proprietary to Contractor, protected by law and of substantial value to Contractor, and their use and disclosure must be carefully and continuously controlled;

The Licensed Materials and the Contractor Source Code are protected by the Copyright Laws of the United States.

All logos, trademarks and trade names of Contractor are proprietary to Contractor and may only be used as authorized in writing by Contractor.

County shall keep all property of Contractor free and clear of all claims, liens and encumbrances.

County shall notify Contractor immediately of the unauthorized possession, use or knowledge of any item supplied to County pursuant of this Contract.

In the event County breaches or attempts to breach any of the provisions of this Section 24, Contractor shall have the right, in addition to such other remedies which may be available to it, to injunctive relief enjoining such breach or attempt to breach, it being acknowledged that legal remedies are inadequate. The provisions of this Section 24 shall survive termination of this Contract.

The Contractor hereby grants to the County and the County accepts from the Contractor, subject to the terms and conditions of this Contract, a non-exclusive, non-sub licensable, non-transferable and revocable license to use the Licensed Materials. The license granted above authorizes the County to use the software products in machine-readable form on a single computer system, designated in writing by the County to the Contractor, provided that if the designated CPU is inoperative due to malfunction, license herein granted shall be temporarily extended to authorize the County to use the software products in machine-readable form on any other County CPU until the designated CPU is returned to operation. By prior written notice to the Contractor the County may redesignate the CPU in which the software products are to be used and must do so if the redesignation is permanent.

When encryption/CPU ID authorization codes are required to operate the software products, the Contractor will provide all codes to the County with shipment of the software. In the case of an inoperative CPU, as defined above, Contractor will provide a temporary encryption/CPU ID authorization code to the County for use on a temporarily authorized CPU until the designated CPU is returned to operation. When changes in designated CPUs occur, the Contractor will issue to the County within twenty four (24) hours of notification a temporary encryption/ID authorization code for use on the newly designated CPU until such time a permanent code is assigned.

The rights and remedies of the County provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

25. **Software – Acceptance Testing:** Acceptance testing may be required as specified for all Contractor-supplied software as specified and listed in the Contract or order, including all software initially installed. Included in this clause are improved versions, including new releases, of this software, any such software which has been modified by the Contractor to satisfy the County requirements, and any substitute software provided by the Contractor in lieu thereof, unless the Contract or order provides otherwise. The purpose of the acceptance test is to ensure that the software operates in substantial accord with the Contractor's technical specifications and meets the County's performance specifications.
26. **Ownership of Documents:** The County has permanent ownership of all directly connected and derivative materials produced under this Contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole property of the County and may be used by the County as it may require without additional cost to the County. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the County.
27. **EDD Independent Contractor Reporting Requirements:** Effective January 1, 2001, the County of Orange is required to file federal Form 1099-Misc for services received from a "service provider" to whom the County pays \$600 or more or with whom the County enters into a contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term "service provider" is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as "an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state." The term is further defined by the California Employment Development Department to refer specifically to independent contractors. An independent contractor is defined as "an individual who is not an employee of the government entity for California purposes and who receives compensation or executes a contract for services performed for that government entity either in or outside of California."

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at www.edd.ca.gov/txicr.htm.

- 28. Software Documentation:** The Contractor agrees to provide to the County, the County-designated number of all manuals and other associated printed materials and updated versions thereof, which are necessary or useful to the County in its use of the equipment or software provided hereunder. The County will designate the number of copies for production use and the number of copies for disaster recovery purposes and will provide this information to the Contractor.

If additional copies of such documentation are required, the Contractor will provide such manuals at the request of the County. The requesting agency/department shall be billed for the manuals and any associated costs thereto by invoice. The Contractor agrees to provide such additional manuals at prices not in excess of charges made by the Contractor to its best customers for similar publications.

The Contractor further agrees that the County may reproduce such manuals for its own use in maintaining the equipment or software provided hereunder. The County agrees to include the Contractor's copyright notice on any such documentation reproduced in accordance with copyright instructions to be provided by the Contractor.

- 29. Debarment:** Contractor shall certify that neither contractor nor its principles are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in the transaction by any Federal department or agency. Where contractor as the recipient of federal funds, is unable to certify to any of the statements in the certification, contractor must include an explanation with their bid/proposal. Debarment, pending debarment, declared ineligibility or voluntary exclusion from participation by any Federal department or agency may result in the bid/proposal being deemed non-responsible.
- 30. Lobbying:** On best information and belief, Contractor certifies no federal appropriated funds have been paid or will be paid by, or on behalf of, the Contractor to any person for influencing or attempting to influence an officer or employee of Congress; or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- 31. Contractor Personnel-Drug Free Workplace:** The Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The Contractor will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
2. Establish a drug-free awareness program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - a. The dangers of drug abuse in the workplace;
 - b. The organization's policy of maintaining a drug-free workplace;
 - c. Any available counseling, rehabilitation and employee assistance programs; and
 - d. Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(c) that every employee who works under this Contract:
 - a. Will receive a copy of the company's drug-free policy statement; and
 - b. Will agree to abide by the terms of the company's statement as a condition of employment under this Contract.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and the Contractor may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:

1. The Contractor has made false certification, or
2. The Contractor violates the certification by failing to carry out the requirements as noted above.

32. Compliance with County Information Technology Policies and Procedures:

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. 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:

Security and Policies

All performance under this 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.

Information Access

The County may require all Contractor personnel performing services under this Contract to execute a confidentiality and non-disclosure agreement and 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 other than the individual Contractor personnel to whom issued. Contractor shall provide each Contractor Person 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.

Enhanced Security Procedures

The County may, in its discretion, designate certain areas, facilities, or systems as requiring a higher level of security and access control. The County shall notify Contractor in writing reasonably in advance of any 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.

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.

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 or 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.

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 HIPAA.

CONTRACT NO. MA-042-13010653

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto certify that they have read and understand all the terms and conditions contained herein and have hereby executed this Contract on the dates shown opposite their respective signatures below.

*CONTRACTOR'S NAME:

Kevin Delaney President
 Print Name Title
Kevin Delaney 12/21/2012
 Signature Date

 Print Name Title

 Signature Date

* If the Contractor is a corporation, signatures of two specific corporate officers are required as further set forth.

The first corporate officer signature must be one of the following: 1) the Chairman of the Board; 2) the President; or 3) any Vice President.

The second corporate officer signature must be one of the following: 1) Secretary; 2) Assistant Secretary; 3) Chief Financial Officer; or 4) any Assistant Treasurer.

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

Leila Garcia Administrative Manager I
 Print Name Title

 Signature Date

APPROVED AS TO FORM
 Office of the County Counsel
 County of Orange, California

[Signature] 12/20/12
 County Counsel Deputy Date

ATTACHMENT A**SCOPE OF WORK**

County has identified and presented to Contractor specific objective for the continued enhancement of Contractor's products and services to be delivered during the term of this Contract.

1. County shall use the Decade Incident Tracking Portal to identify defects and needed features in current and future iterations of EnvisionConnect (EC) and the EnvisionConnect Portal (ECP). Contractor and County shall mutually agree which issues and feature requests will be addressed by the Contractor. A priority and resolution date for each issue and feature shall also be mutually agreed upon by both County and Contractor. Contractor shall capture proposed features to be scoped during the EC and ECP collection and development process.
2. Contractor and any subcontractor for both EC and ECP shall return requests for service within two (2) hours if the County identifies the service request as a priority. All other service requests will be returned within one (1) business day.
3. Contractor and/or subcontractor shall conduct as needed web conferencing with the County to address issues.
4. Contractor shall ensure that the ECP supports the use of previously-specified Environmental Health forms including any mutually agreeable substitutions. Contractor shall ensure that the ECP supports the connection of all Orange County Participating Agencies. Contractor shall ensure that the County will be compliant with state electronic reporting requirements as listed in AB 2286. Contractor/subcontractor shall capture ECP issues as proposed features to be scoped during the ECP collection and development process.
5. County requests that the Contractor work with the subcontractor to document ECP daily operation and functionality in a degree of detail agreeable to the County.
6. County requests Contractor to provide methodology for batch deployment of EC Remote by utilizing the County's existing enterprise desktop management tools. EC Remote synchronization shall be available via Wi-Fi or cellular connection.
7. County requests Contractor to host Press Agent database. County PDF documents shall continue to be hosted by County but accessible by Decade hosted Press Agent. Contractor shall assist County in transferring the internally-hosted Press Agent to a server maintained by Contractor, which will require some identification and modification of external web links. Contractor will also implement Closures form according to logic specified in "Closures.aspx.c".
8. County requests Contractor to expand the ECP such that Participating Agencies (PAs) which do not exchange data directly with the ECP can submit inspection, violation, and enforcement data to the County. The ECP shall validate the provided data for format and valid values and transmit the data to EC and on to the California Environmental Reporting System (CERS). County PAs will have two (2) means of submitting inspection, violation, and enforcement data: 1) Direct Entry and 2) via flat-file upload. Contractor/subcontractor must map ECP forms to EC Inspection, Violation, and Enforcement records, test migration, and deploy changes to ECP and EC.
9. County requests Contractor to implement ECP security enhancements including access management, password/user management, vendor access to sensitive information, and audit and logging requirement. These security enhancement elements are described in the requirements definition document business "E-Submit Security and Password Recovery" agreement. The Contractor shall be required to execute the requirements definition document business agreement upon County's request.
10. County requests Contractor to add Orange County Fire Authority (OCFA) regulated businesses to the ECP using the following parameters:

- a. The Contractor shall migrate OCFA regulated businesses from EC to the ECP under the Orange County Enterprise;
- b. The Contractor shall import maps and chemical data where provided by the County.

Deliverables

1. Press Agent enhancements shall be completed by May 31, 2013
2. Portal Inspection and Enforcement Module shall be completed by March 31, 2013
3. ECP Security enhancements shall be completed by March 31, 2013
4. OCFA ECP Addition shall be completed by March 31, 2013

Contractor shall provide in addition to the licensing, support and services as specified in the Contract to ensure that continual operations with future upgrades and support upon the release of the EC software. Support and services includes the following:

1. **Telephone support:** Telephone support via a toll free number for client's support usability, questions and/or problem resolution. Telephone support shall be provided during Contractor's regular business hours (8:00 A.M. to 5:00 P.M., Pacific Time, Monday through Friday, with federal and state holidays excluded.) Issues can be reported twenty-four (24) hours a day by e-mail, fax or telephone. Contractor supports both the applications developed in-house and the database backend on which these applications run.
2. **Web-Based Support:** County shall have twenty-four (24) hour access to Contractor's web-based resources. This includes all system documentation, Envision Upgrade Files, and weekly "Did You Know?" newsletter of system workflows tips. Web-based resources allow clients to search Contractor's Knowledge Base of known issues and suggestions and instantly send issues to technical support staff via an online support form.
3. **Software Maintenance:** Software maintenance, which includes defect maintenance fixes, and any other required modifications to keep the software in conformance with the specifications contained in the then current Contractor reference manual. Contractor shall amend the specifications only to remove documentation errors, provide consistency of interpretation or describe improvements to the software. Contractor shall correct any error or malfunction in the software that prevents it from operating in conformance with the specifications, or Contractor shall provide a commercially reasonable alternative that shall conform to the specifications. If County's system is inoperable due to a reproducible error or malfunction, and County is using the current release of the software, Contractor shall provide continuous effort to correct the error or malfunction.
4. **Software Upgrades and Enhancements:** Contractor shall periodically make upgrades and enhancements available to the County. Contractor shall provide the necessary instructions and software tools so County can make the upgrades and modifications. Contractor shall have the sole discretion to decide if new software functionality is at no charge upgrade or enhancement or a billable offering. Billable offerings are optional, and County shall not be required to purchase them to maintain the current release level.
5. **User Group Meetings:** User group meetings occur on a monthly basis. These meetings allow users to share ideas, workflows, etc. County may send representatives to any user group meeting conducted by Contractor clients.
6. **Refresher Training:** There shall be no charge for refresher training conducted at Training Contractor's office on mutually agreeable dates, if the material was covered and the attendee(s) was included in County's initial training. Refresher training does not include training for new software or County staff that have not been trained before. These are fee based items and are not included with this Contract.

7. **List Server:** Contractor's clients use a list server to share information. Envision workflows, environmental regulation workflows, user-customized reports, and general questions and answers are available.
8. **Decade Exchange:** Decade Exchange is a web-based file Exchange solution that provides a secure area where County can share files. County has the freedom to upload/download useful reports, scripts, and other files at the time most convenient to them. County has a searchable archive of environmental regulation workflows, Envision workflows, user-customized reports, scripts, and general questions and answers that can be accessed through keyword searches. Users have the option of drilling down through categories or searching for files by using a search dialog box.
9. **Client Management Relationship Software:** The Client Relationship Management (CRM) software application enables Contractor to manage every aspect of our relationship with the County. County information acquired from sales, marketing, client service, and support is captured and stored in a centralized database to improve client satisfaction. Information is not to be provided to any third-party without the written consent of the County.

10. Client Volume Levels and System Applications Used:

Client: County of Orange, Health Care Agency
 Client Address: 1241 E. Dyer Road, Suite 120
 Santa Ana, CA 92705

Inspectors and Program Areas	Numbers
Number of Full Time Equivalent Inspectors tracked.	109
Number of Full Time Equivalent Inspectors using Field Inspection Software.	109

Applications Licenses

Applications included under this License:

- Envision and EnvisionConnect Press-Agent
- Field Inspection System
- PA to CUPA Transfer Process (PACT)
- Envision Press-Agent and EnvisionConnect
- UDF Editor
- Envision Connect Portal

Applications excluded from this License:

- HHW Event Scheduler
- CAMEOfm Export Tool
- Envision Extender
- Batch Payments Import
- Epitome

ATTACHMENT B

COMPENSATION/PAYMENT SCHEDULE

I. COMPENSATION

This is a fixed price Contract not to exceed \$334,101.00 annually for the term of the Contract between the County and the Contractor.

The Contractor agrees to accept the specified compensation as full remuneration for performing all services and furnishing all staffing and materials called for; for any reasonably foreseen difficulties under the responsibility of the Contractor, which may arise or be encountered in the execution of the services until their acceptance; for risks connected with the services; and for performance by the Contractor of all of its duties and obligations hereunder. The fixed price shall include the fee and all expenses related to the performance of work and services required to meet the tasks and deliverables in the SOW, set forth more fully in Attachment A of this Contract.

II. PAYMENT TERMS

A. Terms

Invoices are to be submitted in arrears to the address listed below. Payment will be net thirty (30) days after the receipt of an acceptable invoice submitted in accordance with the terms set forth herein. The invoice must be verified and approved by the County's Project Manager and is subject to routine processing requirements of the County.

Billing shall cover only those services not previously invoiced. The Contractor shall reimburse the County for any monies paid to the Contractor for goods and/or services not provided or when goods and/or services do not meet the Contract requirements.

Payment made by the County shall not preclude the right of the 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 services.

B. Invoicing Instructions

1. Invoices and all supporting documentation shall be submitted to County's Project Manager as follows:
County of Orange
HCA/ Accounts Payable
PO Box 689
Santa Ana, CA 92702
2. Acceptable Invoicing Format: Contractor may bill on any standard invoice form, but the following references must be made:
 - a. County Contract Number;
 - b. Contractor's Federal I.D. Number and California Board of Equalization Permit Number;
 - c. Description of Services;
 - d. Amount of Payment Requested; and
 - e. Remittance Address.

The responsibility for providing acceptable invoice(s) to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

ATTACHMENT C**COST SUMMARY/PRICING**

Fee Schedule			
Fee Item		Yearly Fee	Monthly Fee
1	Contract term (License) Envision/EnvisionConnect:	\$170,000.00	\$14,166.66
2	Contract term (License) PressAgent:	\$20,601.00 ¹	\$612.50 or \$1,716.75
3	Contract term (License) Portal:	\$85,000.00	\$7083.33
4	Transfer Press Agent site/data/configuration: Due upon access to hosted Press Agent instance (one-time project)	\$5,000.00	N/A
5	Portal - Conversion of OCFA Data: Due upon acceptance of converted Data (one-time project)	\$20,000.00	N/A
6	Portal - PA Inspection/Violation/Enforcement Workflow: Due upon deployment of new workflow to Production environment (one-time project)	\$6,000.00	N/A
7	Portal - Access Management: Due upon implementation of Access Management features environment ² (one-time project)	\$5,000.00	N/A
8	Portal - Password/User Management: Due upon implementation of Password/User Management features in Production environment ³ (one-time project)	\$10,000.00	N/A
9	Portal - Provide support and Access to third Part Security Assessment: Due at project kick-off ⁴ (one-time project)	\$7,500.00	N/A
10	Portal - Audit and logging requirements: Due upon implementation of Audit and Logging Requirements features in Production environment ⁵ (one-time project)	\$5,000.00	N/A
TOTAL		\$334,101.00	

¹ Press Agent license fee will be an additional \$1,104.25 to the \$612.50 monthly fee once Transfer Press Agent Site/Data/Configuration has been completed.

² See project name 2012-2013-008 E-Submit Security and Password Recovery Requirements Version 1.1.doc (12/10/12)

³ See project name 2012-2013-008 E-Submit Security and Password Recovery Requirements Version 1.1.doc (12/10/12)

⁴ Not to exceed 40 hours.

⁵ See project name 2012-2013-008 E-Submit Security and Password Recovery Requirements Version 1.1.doc (12/10/12)

EXHIBIT 1

**COUNTY OF ORANGE CHILD SUPPORT ENFORCEMENT CERTIFICATION
REQUIREMENTS**

In order to enhance the child support collection efforts of the County of Orange Family Support Enforcement, all Contractors are required to provide the following information as listed on the attached form:

- If the Contractor is an individual contractor: Name, date of birth, social security number, and residence address.
- If Contractor is doing business in a form other than as an individual: Name, date of birth, social security number, and residence address of *each* individual who owns an interest of ten (10) percent or more in the contracting entity.

In addition, all Contractors must provide:

- A certification that the Contractor has fully complied with all applicable federal and state reporting requirements regarding its employees, and
- A certification that the Contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

In order to comply with child support enforcement requirements of the County of Orange, within thirty (30) days of award of Contract, the Contractor agrees to furnish the required contractor data and certifications to the Deputy Purchasing Agent.

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 sixty (60) calendar days of notice from the County shall constitute grounds for termination of the Contract.

EXHIBIT 1 (cont.)

**COUNTY OF ORANGE CHILD SUPPORT ENFORCEMENT
CERTIFICATION REQUIREMENTS**

- A. In the case of an individual contractor, his/her name, date of birth, social security number, and residence address:

Name: _____

DOB: _____

Social Security No.: _____

Residence Address: _____

- B. In the case of a contractor doing business in a form other than as an individual, 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:

Name: _____

DOB: _____

Social Security No.: _____

Residence Address: _____

Name: _____

DOB: _____

Social Security No.: _____

Residence Address: _____

(Additional sheets may be used if necessary)

EXHIBIT 1 (cont.)

**COUNTY OF ORANGE CHILD SUPPORT ENFORCEMENT CERTIFICATION
REQUIREMENTS**

"I certify that Decade Software Company LLC 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-042-13010653 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 sixty (60) calendar days of notice from County shall constitute grounds for termination of the Contract."

*Signature** *Name (Please Print)*

Title *Date*

Company Name

Contract Number

*Signature** *Name (Please Print)*

Title *Date*

Company Name

Contract Number

***Two signatures required if a corporation.**