



Digital Solutions / Inmate Telephone, Inc.

Modification and Extension No. 1 to Contract for Software and Professional Services to Provide for an Offender Management System for Peoria County, Illinois

This Modification and Extension No. 1 to Contract for Software and Professional Services to Provide for an Offender Management System for Peoria County, Illinois is effective this 29th day of April, 2009, by and between the County of Peoria, 324 Main Street, Peoria, IL 61602 (hereinafter, the "County") and DIGITAL SOLUTIONS, INC., a corporation organized under the laws of the State of Pennsylvania having a business address of 5000 Sixth Avenue, Altoona, PA 16602 (hereinafter, "Contractor") (collectively, the "Parties").

RECITALS

WHEREAS, County and Contractor entered the Contract for Software and Professional Services to Provide An Offender Management System for Peroria County, Illinois, on or about August 22, 2008, whereby Contractor provides an Offender Management System for County jails (hereinafter, this prior agreement is referred to as the "Agreement");

WHEREAS, on or about February 12, 2009, the Peoria County Board ("the Board") approved to negotiate and execute an addendum to the existing Agreement for the provision of an Non-Coin Operated Telephones ("NCOTS"), including an Offender Communication and Video Visitation System (the "VVS"), and Call Recording Technology System (the "CRTS") under a commission structure;

WHEREAS, Contractor will subcontract with its affiliate, Inmate Telephone, Inc. ("ITI") such that ITI will provide all telephone services and maintain sole responsibility for billing and payment for all such phone services;

WHEREAS, the Parties desire to revise the term of the Agreement, and to otherwise amend and supplement the Agreement;

NOW, THEREFORE, in consideration of the mutual promises and obligations contained herein, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1. DEFINITIONS. Except as otherwise provided herein, the capitalized terms used herein shall have the same meanings as provided such terms in the Agreement. The Parties agree that the term "Agreement" shall mean the Agreement identified above, as modified by the terms of this Extension Agreement.

The following definitions replace and restate the definitions for the identified terms:

1.2 "Licensed Software" means Contractor's Offender Management System ("OMS"), the proprietary software installed in connection with NCOTS, including the Offender Communication and Video Visitation System software, all components thereof, and Contractor's proprietary CRTS, including all Releases and Upgrades of any kind thereto. The Licensed Software includes only the object code, but does not include any corresponding source code.

1.4 "Services" means Contractor's provision to the County of the services described in the Agreement and this Extension Agreement.

In addition to terms defined elsewhere in the Agreement, the following term(s) will be given the assigned definitions:

1.9 "Phone Services Commencement Date" means May 1, 2009.

4. Article 4 (FEES, PAYMENTS, AND OTHER FINANCIAL TERMS) of the Agreement is hereby modified as follows:

Article 4.1 is deleted in its entirety and replaced with the following:

4.1 The cost of the OMS Software shall and related services shall not exceed \$518,515, excluding additional fees for (i) duly authorized Supplemental Services and/or (ii) Yearly Fees for products provided, services rendered, and or software licensing fees after the conclusion of the first one (1) year period following the Commencement Date (the "Initial OMS Term"). The annual fees for the first five (5) year maintenance terms following the Initial OMS Term shall be \$44,085. The Parties acknowledge that the County has already paid \$ 336,490.25, has been invoiced for \$103,703, will be invoiced for the remainder of \$78,321.75.

7. Article 7 (REMEDIES AND LIMITATION OF LIABILITY) shall be deleted in its entirety and replaced with the following:

Article 7 (LIABILITY):

A. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, CONTRACTOR SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE ARISING DIRECTLY OR INDIRECTLY FROM THE USE OF OR INABILITY TO USE THE SOFTWARE OR EQUIPMENT PROVIDED UNDER EXHIBITS A OR B, OR ANY RECORDING HARDWARE OR SOFTWARE PROVIDED BY CONTRACTOR UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY DAMAGES OR LIABILITY RESULTING FROM THE INABILITY TO RECORD OR MONITOR CONVERSATIONS, LOSS OF DATA, CALL RECORDINGS, OR CALL DETAIL INFORMATION, OR THE USE OF ANY CONVERSATION RECORDINGS OR CALL DETAIL INFORMATION. NEITHER PARTY SHALL NOT BE RESPONSIBLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES, OR FOR LOSS OF PROFITS OR REVENUE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CONTRACTOR'S MAXIMUM LIABILITY UNDER THIS AGREEMENT, INCLUDING ANY DUTY TO DEFEND OR INDEMNIFY, SHALL BE LIMITED TO THE LESSER OF (1) \$1,000,000 OR (2) THE AGGREGATE GROSS BILLED REVENUE RECEIVED BY CONTRACTOR AND/OR ITI, LESS COMMISSIONS PAID TO COUNTY UNDER THIS AGREEMENT.

B. Subject to the limitations set forth in Article 7.A, Contractor shall indemnify and hold County, and its agents, employees, officers, and directors harmless against claims, losses or liability (including reasonable attorney's fees) arising

from changes to or destruction of property, or injury to persons, occurring solely as a result of Contractor or ITI's negligent installation of the OMS, NCOTS, the VVS, and the CRTS.

C. Notwithstanding anything herein to the contrary, Contractor shall not be liable for interruption of service from any cause. In no event shall Contractor be liable for holes in the walls or damage to floors or other damages that may result from the installation or removal of the phones using reasonable installation and removal techniques.

D. Contractor normally does not install any phone cord longer than 18 inches on its telephones for multiple reasons, including inmate safety, and thus, unless specifically requested by the County and agreed to by Contractor in writing, Contractor will not install any phone cord longer than 18 inches in the Facilities.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY DAMAGES OR LOSSES RESULTING FROM THE USE OR MISUSE OF ANY PHONE CORD LONGER THAN 18 INCHES, INCLUDING WITHOUT LIMITATION, INJURIES OR HARM TO INMATES DUE TO MISUSE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. CONTRACTOR SHALL NOT BE RESPONSIBLE FOR MONITORING THE INMATES USE OF ANY PHONE CORD. COUNTY ASSUMES ALL RESPONSIBILITY FOR ANY USE OR MISUSE OF PHONE CORDS LONGER THAN 18 INCHES BY ANY INMATE OR BY COUNTY'S EMPLOYEES AND/OR AGENTS.

County hereby agrees to indemnify and hold Contractor harmless from any claims, losses or liability of any nature (including reasonable attorney's fees) arising from the use or misuse of phone cords longer than 18 inches, including but not limited to any destruction of property, or injury to persons, occurring solely as a result of the misuse of such phone cords.

E. County agrees to indemnify and hold Contractor, its officers, employees, agents, and subcontractors harmless from all claims, losses or liability of any nature (including reasonable attorney's fees) arising out of or related to (1) any negligent acts or omissions by County, its officials, agents or employees, (2) any failure to record or monitor conversations, loss or damage to call recordings for any reason, and/or County's failure to backup call recordings, and/or (3) any use or alleged misuse of any monitored or recorded conversation by County or any agency and/or individual involved in law enforcement, including but not limited to the use or misuse of any call logs requested by the Facilities, any recordings made or used by the Facilities, or any information obtained while monitoring inmate conversations.

8. Article 8 (OWNERSHIP OF THE LICENSED SOFTWARE) of the Agreement shall be deleted in its entirety and replaced with the following:

8. Article 8 (INTELLECTUAL PROPERTY):

A. Confidentiality. County acknowledges that Contractor's OMS, NCOTS, the VVS, the CRTS, the hardware and software incorporated therein, and related information provided under the Agreement are confidential and proprietary to Contractor (collectively, the "Proprietary Information"). The Proprietary Information is and will remain the sole property of the Contractor. The County agrees to keep the Proprietary Information confidential and to use it only in connection with this Agreement for purposes of installing, operating and/or maintaining the OMS, the CRTS, and the NCOTS, the VVS. The County shall not use the Proprietary Information in any way detrimental to Contractor or for the benefit of any third party, or

disclose any Proprietary Information to any third party without Contractor's express written consent. The County further agrees to use reasonable commercial efforts to protect the secrecy and confidentiality of and avoid disclosure or misuse of the Proprietary Information, including without limitation, those commercially reasonable measures which the County uses to protect its own highly sensitive confidential information. Moreover, the County agrees that it will not reverse engineer or disassemble, make or cause to be made derivative works of any kind from, or make copies of, the Proprietary Information, absent Contractor's express written permission. In the event of any unauthorized disclosure or use of the Proprietary Information, the County shall notify Contractor immediately in writing and will use reasonable efforts to minimize the damage from such disclosure or use. The County will be solely responsible for any breach of this provision and in addition to the foregoing will, at its sole expense, take all reasonable measures including, but not limited to, court proceedings, to prohibit or prevent further unauthorized disclosure or use of the Proprietary Information as a result of such breach.

B. Limited License. The County acknowledges that the hardware and software incorporated into the OMS, the CRTS, the NCOTS, and the VVS, includes patented, patent pending, and/or copyrighted technology ("Contractor's Proprietary Technology"). This Agreement entitles County to use Contractor's Proprietary Technology solely for the operation of the OMS, the CRTS, the NCOTS and the VVS. No license, express or implied, in Contractor's Proprietary Technology is granted to the County other than to use Contractor's Proprietary Technology in the manner and to the extent required for the operation of the OMS, the CRTS, the NCOTS and the VVS.

C. Ownership of Intellectual Property. The County acknowledges and agrees that any and all intellectual property rights in Contractor's Proprietary Technology, including but not limited to any pending patent application or issued patent covering any aspect of Contractor's Proprietary Technology is and will remain the sole property of Contractor. Though no separate royalty is being charged for the use of the OMS, the CRTS, the NCOTS, the VVS, the parties acknowledge and agree that a reasonable royalty associated with the OMS, the CRTS, the NCOTS, and the VVS is incorporated into the compensation being paid under this Agreement; in this sense, the CRTS is being provided at no additional royalty.

D. Restrictions. The County agrees that it will not reverse-engineer, disassemble or decompile any equipment, component, or software which is part of the OMS, the NCOTS, the VVS and the CRTS.

E. No Source Code License. To the extent that the licenses hereunder reach any software, the County acknowledges and agrees that the licenses granted hereunder extend solely to such software in object form only, and that nothing in this Agreement shall be construed as granting any license whatsoever to the underlying source code that is used to generate any such software.

F. The parties agree that a breach of the obligations in this Article 8 would cause irreparable harm and thus the non-breaching party shall be entitled, without limitation, to court ordered injunctive relief to prevent such harm in the event of an apparent or threatened breach of such obligations.

10. Article 10 (TERM AND TERMINATION) of the Agreement shall be deleted in its entirety and replaced with the following:

10. Article 10 (TERM AND TERMINATION)

10.1 Term. This Agreement is effective as of August 22, 2008, and shall remain in force and effect for five (5) years from the Phone Services Commencement Date May 1, 2009 (the "Phone Services Initial Term") unless the Agreement is earlier terminated in accordance with the termination provisions herein. Unless the County delivers to Contractor a written notice of non-renewal at least ninety (90) days prior to the expiration of the current term, this Agreement shall renew automatically upon the same terms and conditions as set forth herein for up to five additional one year (1 year) periods (the "Phone Services Renewal Term"). Upon receipt of a notice of non-renewal from County, Contractor has the right to match the financial and service conditions of any competitive proposal under consideration, and upon written notification of Contractor's promise to match such proposal, Contractor may retain the business for an additional Phone Services Renewal Term. If, for any reason beyond Contractor's control, the business operations of the Facilities are interrupted during the Phone Services Initial Term or any Phone Services Renewal Term, such term shall be extended for a period of time equal to the period of interruption.

10.2 Termination.

A. In the event of termination of this Agreement for any reason, County agrees to allow Contractor access to the Facilities in order to remove all equipment, hardware, and software which belongs to Contractor; except that (1) provided termination occurs after the Initial OMS Term, the limited license granted under 8(B) shall survive as to the OMS portions of the Licensed Software; and 2) provided (i) termination occurs after the Phone Services Initial Term or (ii) County pays the purchase price in accordance with 10.2(B), the limited license granted under 8.2 shall survive as to the VVS portions of the Licensed Software. Contractor agrees to remove its equipment and software within thirty (30) days after expiration or termination of the Agreement.

B. In the event County terminates the Agreement prior to the completion of the Phone Services Initial Term for any reason other than a proven breach by Contractor, County agrees to purchase the equipment listed in EXHIBIT B for the purchase price of THREE HUNDRED THIRTEEN THOUSAND NINE HUNDRED EIGHTY THREE DOLLARS (\$313,983) less a discount amount that is equal to FIVE THOUSAND TWO HUNDRED AND THIRTY THREE DOLLARS AND 5 CENTS (\$5,233.05) for each full month completed prior to the notice of termination, with a maximum discount of THREE HUNDRED THIRTEEN THOUSAND NINE HUNDRED EIGHTY THREE DOLLARS (\$313,983). County shall have the option of purchasing the equipment listed in EXHIBIT B under the same pricing formula upon termination for cause by County.

C. County acknowledges that the installation of the OMS, the NCOTS, the VVS, and CRTS represents a substantial up-front investment by the Contractor and agrees that in the event the County terminates this Agreement without cause before the end of the Phone Services Initial Term, County's liability shall include the cost of installing and removing all of Contractor's phones and equipment at the Facilities and forfeiture of the final two (2) months of commission payments. County hereby agrees that the cost of installing and removing Contractor's phones and equipment is \$500 per phone. This provision shall not be construed as limiting Contractor's right to pursue any other available remedy for a breach of the contract by County.

D. In the event a party believes the other is in material breach of this Agreement, that party shall give the breaching party written notice specifying the nature of the breach and an intention to terminate the Agreement if the breach is not cured in accordance with this provision. This written notice shall include, but is not limited to, a statement of the facts relating to

the breach and the action required to cure the breach. The breaching party shall have thirty (30) business days from the receipt of such notice to cure the breach unless the breach is incapable of being cured within the thirty (30) business day period, in which case the Agreement may not be terminated if efforts to cure the breach are initiated within the thirty (30) business day period and diligently pursued to completion. If the breach is not cured within ninety (90) days after the receipt of written notice of the breach, the other party may terminate the Agreement effective immediately upon notice of termination to the breaching party, and may pursue any available legal or equitable remedies for the breach.

E. For the purposes of this Article 10, the term "cause" shall not include nonperformance due to Force Majeure Conditions, or any other causes beyond a party's control. Force Majeure Conditions include but are not limited to the following: Acts of God, acts of civil or military authority, government regulations, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, strikes, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, acts or omissions of third parties, including suppliers and common carriers (collectively referred to as "Force Majeure Conditions").

12. Article 12 (GENERAL):

Except as otherwise provided herein, the miscellaneous terms used herein shall have the same meanings as provided such terms in the Agreement.

The following miscellaneous provisions are hereby deleted in their entirety and replaced with the following:

12.10. Assignment. Contractor may assign its rights or obligations under this Agreement to any of its affiliates, including ITI. For purposes of this Agreement, "assignment" shall include use of the Licensed Software for benefit of any third party to a merger, acquisition, and/or other consolidation by, with or of County, including any new or surviving entity that results from such merger, acquisition and/or other consolidation.

12.12. Survival of Certain Provisions. Sections 7(A)-(E), 8(A), 8(B) but only to the extent indicated by 10.2(A), 8(C)8(F), 10.2(A)-(E), 12.5, 12.16, 12.19, and 12.20 shall survive any termination or expiration of this agreement.

12.16. Entire Agreement. This Agreement, along with this Extension Agreement, and EXHIBITS A, B, and C, contain the entirety of the agreements by and between the Parties and replaces any prior or existing agreements, oral or written, between the Parties concerning the subject matter herein.

The following miscellaneous provisions are new:

12.19. Dispute Resolution. Any claim or controversy arising out of or relating to the Agreement and the Extension Agreement shall, upon a party's written request, initially be submitted to a senior manager from each party, who will meet in person and confer in good faith to resolve the dispute within fifteen (15) business days following such notice. In the event the Parties cannot resolve the dispute, the Parties may pursue any available legal or equitable remedy consistent with this Agreement.

12.20. No Joint Venture. This Agreement, this Extension Agreement, and/or the disclosure or receipt of Proprietary Information do not constitute or imply any promise or intention to enter into a partnership, agency, employment, or joint venture relationship, or to make any investment in any entity, to purchase any products or services by any entity, or to offer any additional information, products, or services to any entity. The relationship

hereby established between the Parties is that of independent contractors.

12.21. Interpretation. Section headings in this Agreement and Extension Agreement are for reference only and shall not be construed as modifying any provisions herein.

12.22. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which shall together constitute one agreement.

The following Articles are new:

13. Article 13 (COMPENSATION):

A. In consideration for granting Contractor the exclusive right to operate the OMS, the NCOTS, the VVS, and the CRTS at the Facilities, Contractor will pay County 44.25 percent (44.25 %) percent of the Gross Billed Revenue generated by calls made from the OMS, the NCOTS, the VVS, and the CRTS at the Facilities. Gross Billed Revenue, as used herein, means Contractor's total revenue from all billed calls before any deductions or bad debt. Taxes and fees collected on behalf of any Local, State, Federal or other governmental agencies are not considered to be revenue for the purpose of this definition. Payments to County shall be due within thirty (30) days following the collection of records from the preceding month. All commission payments shall be final and binding upon County unless written objection thereto is received by Contractor within sixty (60) days of Contractor's mailing of the commission payment to County. Upon request Contractor shall provide County with an annual accounting of all revenue received under this Agreement.

B. **EXHIBIT C** to this Agreement sets forth the rate schedule for inmate use of the OMS, the NCOTS, the VVS, and the CRTS. These rates shall be effective for the term of this Agreement as provided in Section 10.1.

C. In the event of a change, repeal, enactment or amendment of any statute or regulation by any governmental authority that increases Contractor's costs to perform under this Agreement or reduces Contractor's allowable rates that may be charged to Offender Management System users, NCOTS users, including the Offender Communication and Video Visitation System users, and CRTS users, Contractor shall be entitled to adjust the rates and terms of payment as set forth in Section 13.A above and Exhibit C - Rates, to recover the increase in operating costs or to compensate for losses in revenues due to decreases in the rates chargeable to Offender Management System users, NCOTS users, including the Offender Communication and Video Visitation System users, and CRTS users said adjustment to take effect no earlier than fifteen (15) days after receipt by County of written notice of said adjustment. Any rate increase for reasons other than those stated herein shall be subject to County's written approval.

D. Contractor shall provide County with the incentives listed in **EXHIBIT B** for County's use during the Phone Services Initial Term. All incentives listed on **EXHIBIT B** shall remain the property of Contractor through the end of the Phone Services Initial Term. County understands and agrees that none of the incentives listed in **EXHIBIT B** have any cash value and any products or services not delivered or used to the extent stated in **EXHIBIT B** shall not be redeemable for cash or other products and services, nor shall they have any credit value that can be used in exchange for other products or services. Repair and maintenance of any equipment listed in **EXHIBIT B**, to the extent attributable to normal wear and tear, shall be the responsibility of Contractor during the Phone Services Initial Term, except that in the event any maintenance or repair falls within the original equipment manufacturer's warranty,

Contractor shall cooperate with the manufacturer to effect such maintenance and/or repair. All non-warranty repair and maintenance during the Phone Services Initial Term shall be performed by a Contractor technician, and to the extent not attributable to normal wear and tear shall be charged to County at Contractor's standard rates, including travel and expenses, unless County has entered into a yearly Hardware Maintenance Agreement with Contractor, in which case the terms of the separate agreement shall govern any maintenance and/or repair. County shall at all times be responsible for maintaining and/or replacing any toner cartridges, ribbons, paper, and other like consumables that are utilized by any equipment installed by Contractor.

E. Within thirty (30) days after the completion of the Phone Services Initial Term, Contractor shall transfer ownership to County of the equipment listed in **EXHIBIT B**, at no charge to County. Thereafter, County will be charged for any repair and/or maintenance to said equipment performed by Contractor at Contractor's standard rates, including travel and expenses, unless County has entered into a yearly Hardware Maintenance Agreement with County, in which case the terms of the separate agreement shall govern any maintenance and/or repair.

14. Article 14 (OMS, NCOTS, VVS, AND CRTS INSTALLATION AND OPERATION):

A. In consideration for the services and equipment provided by Contractor as set forth herein, County grants to Contractor the sole and exclusive right and license to install, maintain, operate and derive revenue from all OMS, the VVS, and the CRTS for use by inmates at the Facilities or any additional facilities built or controlled by County during the Phone Services Initial Term and any Phone Services Renewal Term, or any extensions thereof.

B. Contractor shall use reasonable efforts to install the NCOTS the VVS, and the CRTS on or before the Phone Services Commencement Date. County agrees that the configuration of the NCOTS and the VVS, including the number of telephones, shall be at Contractor's discretion based on system usage at each Facility. County hereby grants to Contractor reasonable access to and the use of the Facilities for the installation, maintenance and operation of the NCOTS and the VVS. County further agrees to provide adequate space for the telephones that is easily accessible to the inmates, and adequate space for the equipment necessary to operate the NCOTS and the VVS, that is easily accessible to Contractor or its representatives. County shall provide at its own expense electrical outlets sufficient in number and capacity for operating the NCOTS, the VVS, and related equipment in each Facility.

C. Contractor shall be responsible for all line charges and any phone company charges related to the use of the NCOTS and the VVS installed by Contractor at the Facilities. If any such line charges are billed directly to County, County agrees to provide to Contractor all necessary information related to line charges from any long distance or other operating companies to ensure payment by Contractor.

D. Except as otherwise expressly provided in this Agreement, all phones, phone-related equipment, hardware and software provided by Contractor, including the OMS, the CRTS, the NCOTS, and the VVS, shall remain the property of Contractor. County warrants and represents that it shall not transfer, encumber, pledge, remove, relocate or grant any interest in said property without Contractor's express written consent.

E. Maintenance and repair of the equipment installed by Contractor (except as set forth in Article 13 with

respect to the equipment listed in EXHIBIT B) shall be the responsibility of Contractor, provided, however, that the cost of any repair or maintenance required due to the misuse, neglect, or willful misconduct of County, its agents or employees, or of any inmate, shall be the responsibility of County, and County shall be responsible for obtaining reimbursement from the Inmate Fund, if appropriate. Any repairs required due to misuse, neglect, or willful misconduct of County, its agents or employees, or any inmate, will be billed to County at Contractor's standard rates, including travel and expenses. Contractor shall perform all such maintenance in accordance with the service level commitments in EXHIBIT B.

F. Contractor shall provide call recording and/or monitoring services for conversations made through the NCOTS and the VVS, including the use of Contractor's proprietary CRTS. County agrees it shall be solely responsible for designating, and shall designate, through the Inmate Telephone Management System which conversations are to be recorded and/or monitored ("designated conversations") and which conversations are not to be recorded or monitored. The CRTS will record designated conversations to a commercial grade redundant storage device; provided, however, that Contractor shall not be obligated to record any conversation that is privileged or to make any recording that prohibited by law (including without limitation privacy laws) or a court order. Contractor reserves the right, in its sole discretion, to decline to record any conversation which Contractor has a good faith belief would violate any law, court order, or other legal obligation or prohibition.

Contractor agrees to provide storage for recorded conversations for a maximum period of six (6) months unless a different period has been agreed to in writing by both Parties. Contractor and/or its subcontractors will use industry standard methods to store recorded conversations; however, County shall be solely responsible for backing up the recorded conversations stored by Contractor and/or its subcontractors and must do so to devices owned and operated by, or under the control of, County. In the event of a system failure which results in the loss of any or all stored conversations, Contractor, its subcontractors and County will rely solely on the Contractor's backup data for recovery.

Contractor offers no warranty as to the accuracy or reliability of its conversation recordings or the accuracy or reliability of the storage media on which the conversation recordings are stored. In the event of a failure of one of the systems for any reason beyond Contractor's control, including but not limited to a system malfunction, loss or interruption of power, or any other event beyond Contractor's control, County agrees that Contractor shall not be liable for any claims of any nature based on a failure to record, monitor, or store a conversation.

15. Except as expressly modified herein, all other terms and conditions of the Agreement shall remain in full force and effect in accordance with the terms hereof.

IN WITNESS WHEREOF, the Parties have executed this Agreement the date first above written.

PEORIA COUNTY, ILLINOIS

DIGITAL SOLUTIONS, INC.

By: Pat Wick
Name: Patrick Wick
Title: County Administrator

By: Anthony B. Boccia
Name: ANTHONY BAMBACCIA
Title: PRESIDENT

Witness:
By: Virginia Pearl
Name: VIRGINIA PEARL

Witness:
By: Linda L. Glasgow
Name: Linda L. Glasgow
Admin Assistant



Digital Solutions / Inmate Telephone, Inc.

Offender Management System | Offender Communication System | Probation and Parole | Call Track | Juvenile Detention

5000 Sixth Ave., Suite 1, Altoona, PA 16602

MEMORANDUM of UNDERSTANDING (MOU)

BETWEEN

The County of Peoria, 324 Main Street, Peoria IL 61602 and
Digital Solutions / Inmate Telephone Inc. 5000 Sixth Ave., Suite 1, Altoona, PA 16602

SUBJECT: Inmate Banking Services

1. Purpose. This MOU outlines the Pricing, Fees, Services, and Responsibilities of DSI/ITI and Peoria County relative to the provisioning of Inmate Banking Services for inmates housed at the County Jail Facilities.

2. Scope. This MOU covers Inmate Banking services to be provided through walk-up, ATM style self service kiosk to be located at the Peoria County Jail Facilities and through an online e-commerce web site.

3. Understanding.

- A) Peoria County, IL, will receive one (1) lobby kiosk from DSI / ITI at no charge for the collection of inmate "commissary" funds and for the collection of inmate destination prepay funds.
i) The County will collect the "Cash Only" transaction revenue from the kiosks and manage the process of depositing same into the relevant financial institution account(s).
ii) DSI/ITI assumes liability for any and all fraudulent transactions accepted through the kiosks including, but not limited to counterfeit bills and credit card charge backs. In the event that counterfeit bills are accepted by the kiosks, DSI/ITI will reimburse the County for any loss suffered due these bills being accepted.
iii) DSI / ITI, at its expense, will supply the County with all maintenance and supplies (paper, bill cartridges, etc.) required to operate the kiosks.
iv) Peoria County will provide appropriate network and internet connectivity to facilitate the operation of the kiosk software.
v) In the event that any Peoria County visitors damage the equipment, County will make best efforts to detain the visitor and call the authorities. DSI/ITI will, at its sole discretion, press charges in order to recover damages. In any event, DSI/ITI will repair or supply a new machine on a priority basis.
B) "Cash Only" transactions processed at the kiosks will be charged a flat fee of two dollars and seventy-five cents (\$2.75)
C) Credit Card transactions processed at the kiosks will be charged standard DSI fees to cover such items as credit card charge-backs and credit card usage
D) Credit Card transactions processed via the DSI /ITI Web Payment option will be charged standard DSI fees to cover such items as credit card charge-backs and credit card usage fees.

Initial: DSI Peoria County

Improve Your Experience



Digital Solutions / Inmate Telephone, Inc.

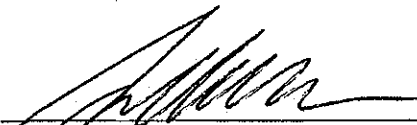
Offender Management System | Offender Communication System | Probation and Parole | Call Track | Juvenile Detention

E) Standard DSI credit card fees are:


Transaction Amount		
Low End	Upper End	Fee
\$0.00	\$50.00	\$4.25
\$50.01	\$100.00	\$5.75
\$100.01	\$200.00	\$8.75
\$200.01	\$300.00	\$11.75

F) All fees generated by the use of the inmate banking services are the property of DSI/ITI. DSI/ITI will issue an invoice each month through its partner company Inmate Financial Services for all fees collected during the prior month.

4. **Effective date.** The effective date of this agreement is the latest date of signature as noted below.


 Digital Solutions / Inmate Telephone
 Anthony Bambocci, President and C.E.O.

6/22/09
 (Date)


 Peoria County
 Name: Patrick Orich
 Title: County Administrator
 6/26/09
 (Date)

Improve *Your* Experience

EXHIBIT A – PAYMENT SCHEDULE

EXHIBIT A

PAYMENT SCHEDULE

Percentage of Payment	Deliverable
Five Percent (5%)	Execution of this Agreement
Fifteen Percent (15%)	Completion and Acceptance of Core System Installation
Ten Percent (10%)	Completion and Acceptance of Interfaces Installation
Ten Percent (10%)	Completion and Acceptance of Interfaces Testing
Ten Percent (10%)	Completion and Acceptance of Data Conversion
Fifteen Percent (15%)	Completion of Training
Twenty Percent (20%)	System "Go-Live"
Fifteen Percent (15%)	Software Acceptance (Not more than 30 days from Software Live Date)

EXHIBIT B – Equipment / Incentives

Presented to: DSI for Peoria

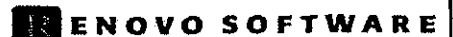
Proposal #: Peoria022309

Proposal Expires: March 31, 2009

Terms: 50% down-payment due with order : Balance due upon delivery -N30

Proposal DOES NOT include, Station Installation, Network, Power or Wiring

Proposed by: Tim Eickhoff teickhoff@renovosoftware.com 952-931-0775



5666 Lincoln Drive, Suite 206
Edina, MN 55436

SECTION I. Visitation Scheduling & Policy Management Packages	Part #	MSRP	Qty.	End User Price	Ext. Price
Video Visitation Scheduling & JMS Interface Package					
Renovo's Video Visitation Scheduling & JMS Interface Package is designed for any size facility which desires Scheduling, Automation and JMS Interface. This package allows correctional facilities to administer visitation sessions based on Owner policies. Registered users can quickly and easily schedule visitations via the web. The Scheduling Package communicates with the video hardware and automatically sets up and tears down the visitation session without human intervention. The package includes: Visitor Check-IN, Quick Connect, Web-based Scheduling, Conflict Checking, Automation, Reports and JMS Interface. This package may be used with all of the Monitoring, Recording & Notification Modules. Does not include any hardware or the costs associated if the JMS provider charges for interface. PRICES ARE PER STATION	RS-Vis-Schedule	\$850	66	\$723	\$47,685
SECTION IA. Viewing, Recording & Notification Modules	Part #	MSRP	Qty.	End User Price	Ext. Price
Video Visitation Viewing Module					
Allows Correction Officers to View up to 4 visitation sessions concurrently. If more than 4 visits are running the visits will scan into the viewing area at a configurable timeframe. The correction officer can stop, suspend, resume or record (provided recording resources are available) a specific visit. Application requires an existing or new PC that is connected to the visitation network. PC must meet hardware requirements.	RS-Viewing	\$495	5	\$421	\$2,104
Video Visitation Monitoring & Interrupt Module					
Allows Correction Officers to View up to 4 visitation sessions concurrently. If more than 4 visits are running the visits will scan into the viewing area at a configurable timeframe. The correction officer can INTERRUPT (project audio & video to the inmate & visitor) unmute, stop, suspend, resume or record (provided recording resources are available) a specific visit. DOES NOT INCLUDE ANY HARDWARE (application requires a PC, camera, microphone and a CODEC which is listed below as "Monitoring & Interrupt Station")	RS-Interrupt	\$2,495	0	\$2,121	\$0
Video Visitation Recording & Video on Demand Module					
Records up to 8 video sessions and allows authorized users to watch a single stream of video/audio. If used with the Visitation Scheduling Package, users are enabled to schedule future visits for recording or on demand. Allows for storage of sessions for playback at a later date. Allows authorized users to view visitation sessions at their desktop and burn a DVD. DOES NOT INCLUDE SERVER (application requires a server)	RS-Record	\$1,495	2	\$1,271	\$2,542
EMAIL Cancellation Notification					
Provides an automated EMAIL cancellation notification to let the visitor(s) know that their visitation has been cancelled. May be used in conjunction with Auto-Dialer Cancellation. Customer to supply access to an Email Server	RS-Cancel-EMAIL	\$750	1	\$638	\$638
Auto Dialer Cancellation Notification					
Provides an automated phone call with a cancellation notification to let the visitor know that their visitation has been cancelled. Customer to supply analog phone line in the server room where the application is installed. The system is one (1) port system.	RS-Cancel-AD	\$1,950	1	\$1,658	\$1,658
Software Subtotal					
SECTION II. On-Site Configuration, Testing & Annual Maintenance	Part #	MSRP	Qty.	End User Price	Ext. Price
On-Site Configuration and Testing					
Renovo Software's staff provides the following on-site services: IP address configuration, monitor adjusting, camera focusing, safety glass cleaning and testing and verification of all station connections. This is a comprehensive verification process to confirm functionality	RS-Config	\$100	66	\$90	\$5,940
Annual Software Maintenance					
Annual Maintenance Includes: the annual maintenance program will provide the following: -SOFTWARE RELEASES · Software fixes are provided at no additional charge so long as customer is using current release of software · Technical Phone Support 8:00 A.M. – 5:00 P.M. M-F Central Time Zone · Technical Phone Support with automated paging for off hours (7 days a week x 24 hours a day) · Non-software fixes will be billed at \$125.00 per hour during 8:00 A.M. – 5:00 P.M. M-F Central Time and \$225.00 per hour after hours, material and travel will be billable if an onsite visit is required. · Customer must provide Dial-in accessibility for support Annual Maintenance commences upon installation (PRICES ARE PER STATION)	RS-Maint-2	\$125	66	\$113	\$7,425
Testing & Maintenance Subtotal					

SECTION III. Renovo Software Training		Part #	MSRP	Qty.	End User Price	Ext. Price
Scheduling Training						
Scheduling Training should be attended by those responsible for maintaining network scheduling. This course is designed to familiarize the user with the capabilities of the scheduling software. It introduces the processes necessary to log in as a user, change your password, view other user profiles, create and edit visitations, view visitation and view and/or print reports. Training session is conducted onsite, and is approximately 1-2 hrs. 20 person maximum. **Note: Pricing includes travel expenses if training is conducted at the same time as installation. If not, travel will be added on a T&E basis.		RS-SchedTrain	\$750	2	\$675	\$1,350
Administration Training						
Administration Training should be attended by high-level administrators and support personnel. Participants will learn how to access Administration and view, edit and maintain such options as devices, sessions, network diagram, and hardware. Training will also include adding and editing stations/carrels, station/carrel groups, users and user groups. Training session is conducted onsite, and is 4-6hrs. 5 person maximum. **Note: Pricing includes travel expenses if training is conducted at the same time as installation. If not, travel will be added on a T&E basis.		RS-AdminTrain	\$1,495	2	\$1,346	\$2,691
Section IV. Video Visitation Stations		Part #	MSRP	Qty.	End User Price	Ext. Price
Video Visitation Enclosure						
<ul style="list-style-type: none"> Houses the camera, video display, video transmission equipment, audio handset and associated electronics 17" Color LCD flat panel monitor Hi- resolution camera Standards based Video Conferencing CODEC H.261/H.263 CODEC (H.323 IP Protocol) Approximate dimensions: 22"x 17 1/2" x 6 1/2" (HxWxD) Shatter resistant polycarbonate window w/Lexan shield Correction Grade Steel Wall Mounted 		RS-VVS-1	\$3,900	61	\$3,315	\$202,215
*****Specifications can change without notice*****						
Video Visitation Stations- MOBILE CART UNITS						
VisStation-Video Visitation Enclosure - 120VAC, Mobile Cart <ul style="list-style-type: none"> Houses the camera, video display, video transmission equipment, audio handset and associated electronics 17" Color LCD flat panel monitor Hi- resolution camera 7/16 Shatter resistant polycarbonate Correction Grade Steel Single handset with steel lanyard 120VAC MOBILE CART 		RS-VS-S-MOB	\$5,499	5	\$4,949	\$24,746
*****Specifications may change without notice*****						
Section V. Servers		Part #	MSRP	Qty.	End User Price	Ext. Price
Dell or comparable servers for Renovo' Video Visitation application. Server specifications provided upon request and at the point of order.		RS-VV-Server	\$4,695	1	\$4,460	\$4,460
Dell or comparable servers for Renovo's Recording & Video on-Demand application. Server specifications provided upon request and at the point of order. This server will handle up to 8 simultaneous recorded visits.		RS-Record-Server	\$3,695	3	\$3,610	\$10,531
Section VI. Consulting		Part #	MSRP	Qty.	End User Price	Ext. Price
On-site pre and post installation consultation support. Renovo Software will provide technical assistance, on-site repair, and consultation/training for a flat fee of \$7,500.00 per week. This is an added service to help throughout the initial deployment and ramping up period.		RS-Cons-1	\$7,500	0	\$6,750	\$0
Visitation Solution Total						\$13,993

EXHIBIT C – Rate Schedule

RATES

LOCAL							
		DAY		EVENING		NIGHT/WEEKEND	
MILES	INITIAL MINUTES	ADDT'L MINUTE	INITIAL MINUTES	ADDT'L MINUTE	INITIAL MINUTES	ADDT'L MINUTE	
All	\$0.15	\$0.15	\$0.15	\$0.15	\$0.15	\$0.15	
FLAT RATE for 15-minute Call: \$2.25							
INTRALATA / INTERLATA							
		DAY		EVENING		NIGHT/WEEKEND	
MILES	INITIAL MINUTE	ADDT'L MINUTE	INITIAL MINUTE	ADDT'L MINUTE	INITIAL MINUTE	ADDT'L MINUTE	
1-10	\$0.26	\$0.23	\$0.26	\$0.23	\$0.26	\$0.23	
11-22	\$0.27	\$0.26	\$0.27	\$0.26	\$0.27	\$0.26	
23-55	\$0.29	\$0.27	\$0.29	\$0.27	\$0.29	\$0.27	
56-124	\$0.32	\$0.31	\$0.32	\$0.31	\$0.32	\$0.31	
125-292	\$0.35	\$0.34	\$0.35	\$0.34	\$0.35	\$0.34	
293+	\$0.37	\$0.35	\$0.37	\$0.35	\$0.37	\$0.35	
IntraLATA Operator Surcharge: \$2.25							
InterLATA Operator Surcharge: \$2.50							
INTERSTATE							
		DAY		EVENING		NIGHT/WEEKEND	
MILES	INITIAL MINUTE	ADDT'L MINUTE	INITIAL MINUTE	ADDT'L MINUTE	INITIAL MINUTE	ADDT'L MINUTE	
All	\$0.69	\$0.69	\$0.69	\$0.69	\$0.69	\$0.69	
Operator Surcharge: \$3.50							
INTERNATIONAL							
		DAY		EVENING		NIGHT/WEEKEND	
MILES	INITIAL MINUTE	ADDT'L MINUTE	INITIAL MINUTE	ADDT'L MINUTE	INITIAL MINUTE	ADDT'L MINUTE	
All	\$0.89	\$0.89	\$0.89	\$0.89	\$0.89	\$0.89	
Debit Call Operator Surcharge: \$4.50							
** International calls can only be completed on a debit basis **							

CONTRACT FOR SOFTWARE AND PROFESSIONAL SERVICES
TO PROVIDE AN OFFENDER MANAGEMENT SYSTEM
FOR PEORIA COUNTY, ILLINOIS

THIS CONTRACT FOR PROFESSIONAL SERVICES (hereinafter, the "Agreement") is made as of 22nd day of August, 2008, by and between the County of Peoria, 324 Main Street, Peoria, IL 61602 (hereinafter, the "County") and **DIGITAL SOLUTIONS, INC.**, a corporation organized under the laws of the State of Pennsylvania having a business address of 4200 Industrial Park Drive, Altoona, PA 16602 (hereinafter, "Contractor").

WHEREAS Contractor has developed the Licensed Software (as defined below) for managing data relating to Offender Management Systems;

WHEREAS County has requested to use, and Contractor has agreed to provide, professional services and support for the Licensed Software on the terms and conditions set forth below and in Exhibit A to this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and obligations set forth below, and other good and valuable consideration, the receipt of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1
DEFINITIONS

Each of the following terms will have the meaning set forth below for the purposes of this Agreement. Unless expressly set forth herein, all terms defined in the License Agreement (as defined below) shall have the same meaning when used in this Agreement. In the event of an inconsistency or conflict between the definition for any term set forth in the License Agreement and any definition set forth below, the definition in the License Agreement shall control.

1.1. "Commencement Date" means the date that Contractor receives the Notice to Proceed issued by the County, which indicates that Contractor may begin performance of the services identified in Exhibit A.

1.2. "Licensed Software" means the Software for which Contractor granted County a right of use in accordance with the terms and conditions of the License Agreement.

1.3. "Documentation" means the user, system and installation documentation (if any) for the Licensed Software.

1.4. "Services" means Contractor's provision to the County of the services described herein.

CONFIDENTIAL – SUBJECT TO CONFIDENTIALITY PROVISION HEREIN

1.5. "Software" means Licensor's proprietary software system and all Releases and Upgrades of any kind, if any, including all Source Code and Object Code there for.

1.6. "Supplemental Services" means those additional and separately billable services which are beyond the Scope of Services set forth in Exhibit A and which Contractor may, at its option, otherwise provide at the written request of County.

1.7. "Intellectual Property Rights" means all inventions, patents, works of authorship, copyrights, trademarks, know how, trade secrets, and other valuable proprietary rights.

1.8. "Deliverable" means the Licensed Software and Documentation and any other Software or tangible item to be delivered by Contractor to the County pursuant to this Agreement.

ARTICLE 2 SUPPORT SERVICES

2.1. Included Services. Contractor agrees to furnish the County with the Services set forth in Exhibit A. This Agreement specifically excludes any responsibility of Contractor for providing any services other than those Services identified in Exhibit A. The Contractor shall begin the Services on the Commencement Date.

2.2. Supplemental Services. Contractor may provide Supplemental Services, subject to the availability and expertise of Contractor personnel, at such additional cost for such Supplemental Services as agreed to by both parties in writing. Any Supplemental Services will be provided in accordance with the terms and conditions of this Agreement unless otherwise expressly set forth in an approved Service Enhancement Request, which shall be signed by a duly authorized representative of each party and attached as an Exhibit to this Agreement.

2.3. Specific Requirements. Contractor shall, where applicable, comply with the following guidelines in the performance of Service under this Agreement:

- (a) County purchasing / change order process apply.

2.4. Workmanlike Skills. Contractor will render all Services in a professional and workmanlike manner, using personnel generally deemed acceptable in the information technology industry to perform the Services that such Contractor personnel have been assigned to perform.

2.5. Discrimination. Contractor shall not discriminate against any person because of race, color, religious creed, ancestry, national origin, age, sex, or handicap.

2.6. Record Maintenance. Contractor agrees to maintain records relating to the performance of the services hereunder as reasonably required by County. Such records shall be open for inspection to County and to such agents of County as are designated during normal business hours, generally Monday through Friday, 9 A.M. through 5 P.M. Eastern Standard.

2.7 Unacceptability. Contractor agrees to replace any individual assigned by Contractor who County determines at any time to be unacceptable, upon reasonable request of County's Project Manager. The County has the sole right to accept or reject any individual assigned by Contractor to perform Services under this Agreement.

2.9. Insurance. Contractor agrees to provide to County along with this signed agreement an original Certificate of Insurance made out to County of _____, showing the following insurance coverage. The Certificate of Insurance for commercial general liability coverage shall contain an endorsement naming the County of _____, as an Additional Insured and shall include any restrictive endorsements.

(a) Commercial General Liability:

\$2,000,000	General Aggregate
\$1,000,000	Products/Completed Operations Aggregate
\$1,000,000	Personal/Advertising Injury
\$1,000,000	Each Occurrence

(b) Workers' Compensation & Employer's Liability:

Statutory limits for New York statutory coverage and employer's liability.

(c) Automobile Liability (Business), for any automobile used in connection with the performance of Service under the Agreement:

\$1,000,000 combined single limit.

(d) Professional Errors and Omissions Liability:

\$1,000,000	Each Occurrence
\$1,000,000	Aggregate

If coverage on any insurance policy required by this Agreement is due to expire before the end of the contract period, it is the responsibility of the Contractor to provide an updated Certificate of Insurance to the County prior to the expiration date. If coverage should expire prior to completion date shown on contract, the County reserves the right to withhold payment(s) until an updated Certificate is provided.

2.10. Conflict of Interest. Contractor will inform the County in writing immediately if any potential conflict of interest arises during the performance of this Agreement. Conflict of interest may constitute grounds for termination of this Agreement following notification by County to Contractor, (allowing Contractor a reasonable opportunity to respond) where same is not corrected by Contractor within a reasonable time period after notice.

ARTICLE 3
ACCESS TO COUNTY DATA, SYSTEMS AND PERSONNEL

3.1. Access. County agrees to permit Contractor's authorized personnel, and third parties as may be authorized by Contractor, access to the equipment, information, data, data communication services, and communication lines required for the installation, operation, and/or maintenance of the Licensed Software, at such times and for such purposes as reasonably necessary or appropriate to permit Contractor to perform its obligations under this Agreement.

3.2. Security of System Components. Contractor and County will agree on reasonable security measures for the protection of the Licensed Software and the equipment on which the Licensed Software is installed for the term of this Agreement and any extension or renewal thereof. Contractor personnel will comply with the rules of the County with respect to access to the County's offices and records.

3.3. Availability of County Personnel. Upon Contractor's reasonable request, County will make its personnel, including appropriate professional personnel, administrative personnel and other employees, reasonably available for consultation in order to assist Contractor to perform its obligations under this Agreement.

ARTICLE 4
FEEES, PAYMENTS AND OTHER FINANCIAL TERMS

4.1. The cost for the Licensed Software and Services shall be not to exceed \$518,515.00, excluding additional fees for (i) duly authorized Supplemental Services and/or (ii) Yearly Fees for products provided, services rendered, and or software licensing fees after the conclusion of the first one (1) year period following the Commencement Date (the "Initial Term"). The annual fees for the first five (5) year maintenance terms following the Initial Term shall be \$44,085.00 annually.

4.3. Travel and Living Expenses. County will reimburse Contractor for actual travel and living expenses that Contractor incurs in providing County with Services under this Agreement in amount not to exceed the amounts specified in Exhibit A (except as set forth in any Service Enhancement Request, or in any renewal or extension of this Agreement), as such expenses are incurred. Contractor will use reasonable efforts to limit travel and living expenses by using coach air fare, booked in advance when available, staying at hotels identified in advance by County as offering County's Contractors a discounted rate, and sharing rental cars. Reimbursement is subject to any statutory reimbursement limitations imposed on County Contractors, and County will provide Contractor with a copy of such limitations before Contractor incurs expenses.

4.4. Taxes. County represents and warrants that it is a tax exempt entity under federal and state law and upon written request will provide Contractor with a certificate of exemption in lieu of paying any such tax required to be paid by County. In the event that County's tax exempt

status changes or if the certificate is deemed invalid, taxes, other than taxes based on Contractor's net income or capital stock, imposed by any taxing authority and based upon any Services or other goods and services furnished under this Agreement will be the responsibility of County and will be payable in addition to all other amounts and charges.

4.5. Service Enhancement Requests. No payment for additional services will be made unless it is approved by County in the form of an amendment to this Agreement. County may request Supplemental Services by submitting a written Service Enhancement Request to Contractor from time to time during the term of this Agreement, or any renewal or extension thereof. Contractor will, in writing, accept or reject the County's Service Enhancement Request, in its sole discretion. Upon the parties' written agreement to a Service Enhancement Request and the amounts to be paid to Contractor in connection therewith, the amount to be paid Contractor under this Agreement and the time of performance will be adjusted as specified in the Service Enhancement Request. All such work will be executed under the terms and conditions specified in this Agreement. Without limiting the foregoing, however, the actual fees for any such Supplemental Services will be negotiated and agreed to by the parties in each such instance.

4.6. Invoices. Contractor will invoice County for travel and living expenses each month, as incurred. County will pay each Contractor invoice by no later than thirty (60) days after receipt as set by Illinois prompt payment act. All other payments for the Licensed Software and Services for the Initial Term of the Agreement or the first annual renewal thereof shall be paid by County according to the Payment Schedule set forth in Exhibit B to this Agreement. Fees for any additional renewal or extension of the Initial Term or for any Supplemental Services shall be paid according to the terms of the applicable Service Enhancement, Extension or Renewal Agreement. All contract changes shall follow the County's change order process. Contractor agrees that each Contractor's invoice shall include the following specific information: For equipment and software, the quantity, make/model/version/release, warranty information, and cost per unit for each component delivered. For Contractor resources, the person's name, specific activity worked on, the time worked on that activity, the date of the activity, and the hourly rate for that person. All detail will be presented and be reconcilable to the amount invoiced.

- A. Limitation on Costs, The total cost, both direct and indirect, of performing the tasks to be performed by contractor under the terms of this Contract shall be as set forth in the Cost Proposal submitted and included as part of the Contractor's Response. The County shall be invoiced no more than a total of \$518,515.00 except as provided in 4.1 above or written amendments to this contract.
- B. Allowable Costs.
 - 1) No expenses shall be incurred prior to the execution of this Contract.
 - 2) No expense reimbursements other than payment as agreed to in this contract shall be made by the County.
 - 3) Invoices shall reference Purchase Order number and shall include all information requested by the County. Invoice schedule and procedures shall be according to the agreement between the Vendor and County upon implementation of the Contract as listed in Exhibit B to this contract. Invoice payment shall be contingent upon the County's approval of acceptable progress, which approval shall not be unreasonably withheld.

**ARTICLE 5
ACCEPTANCE OF SOFTWARE**

“Acceptance” as used in the Payment Schedule set forth in Exhibit B to this Agreement means completion of the following process: From the date of Contractor’s notice to the County that the Software is live at the County Jail, County will have a fifteen (60) day Testing Period in which to verify that the Software conforms in all material respects with the description of the Software in the Software Documentation. If during the Testing Period County reasonably determines that the Software does not so conform, County will have five (5) business days from the expiration of the Testing Period to advise Contractor in a detailed writing as to the nature and extent of such non-conformance. Contractor will thereupon correct such non-conformance after Contractor’s receipt of such notice, and, upon notice of the correction, a new Testing Period shall begin and the same process will be followed. The Software shall be deemed accepted upon receipt of written notice of acceptance to Contractor from County or if County does not notify Contractor of a material nonconformance within five (5) days after the expiration of any Testing Period, whichever occurs first.

**ARTICLE 6
LIMITED WARRANTY AND EXPRESS DISCLAIMER**

Contractor warrants that all services under this Agreement will be performed in a workmanlike manner and that for a period of one year after the effective date of this Agreement (“Warranty Period”), the Licensed Software shall be free from material defects and shall perform with any applicable design documents prepared by Contractor under the Contract. Contractor will repair or replace the Licensed Software so that it performs in accordance with the applicable functional specifications, at no additional cost, as soon as possible after receiving notification from the County of any breach of this warranty during the Warranty Period.

THE FOREGOING WARRANTY IS MADE EXPRESSLY IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING, AND ACCORDINGLY, CONTRACTOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO, ANY EXPRESS WARRANTIES NOT INCORPORATED INTO THIS AGREEMENT AND ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**ARTICLE 7
REMEDIES AND LIMITATION OF LIABILITY**

CONTRACTOR AND COUNTY ACKNOWLEDGE AND AGREE THAT IN NO EVENT WILL CONTRACTOR’S LIABILITY TO COUNTY (INCLUDING ANY DUTY TO DEFEND OR INDEMNIFY), IF ANY, FOR ANY CLAIMS WHATSOEVER OR FOR ANY REASON WHATSOEVER RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY THE COUNTY UNDER THIS CONTRACT. REGARDLESS WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF

ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL CONTRACTOR BE LIABLE TO COUNTY FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THESE LIMITATIONS APPLY TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION, AND OTHER CAUSES OF ACTION BASED ON SIMILAR LEGAL THEORIES. CONTRACTOR AND COUNTY FURTHER ACKNOWLEDGE AND AGREE THAT THEY ARE ENTERING INTO THIS AGREEMENT ON THE UNDERSTANDING THAT THE FEES FOR THE SERVICES HAVE BEEN SET TO REFLECT THE FACT THAT COUNTY'S REMEDIES, AND CONTRACTOR'S LIABILITY, WILL BE LIMITED AS EXPRESSLY SET FORTH IN THIS AGREEMENT, AND IF NOT SO LIMITED, THE FEES FOR THE SERVICES WOULD HAVE BEEN SUBSTANTIALLY HIGHER. THE PARTIES HAVE AGREED THAT THE LIMITATIONS SPECIFIED IN THIS SECTION 7 WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

ARTICLE 8 OWNERSHIP OF THE LICENSED SOFTWARE

Contractor shall remain the sole and exclusive owner of all right, title and interest in the Licensed Software, including any Intellectual Property Rights therein. Nothing in this Agreement shall be construed to confer upon the County any ownership right in the Licensed Software, including any Intellectual Property Rights therein, or to modify in any way the scope of the license granted to the County in the Software License.

ARTICLE 9 INDEMNIFICATION

9.1. Intellectual Property Infringement Indemnification by Contractor.

(a) Subject to the limitations set forth in Section 7, Contractor will defend, indemnify and hold County harmless from and against any loss, cost and expense that County incurs because of a claim that use of the Licensed Software infringes any United States Intellectual Property Rights of others; provided, however, that Licensor shall have no duty to defend, indemnify or hold Licensee harmless from and against any loss, cost and expense that is incurred as a result of any claim of infringement that arises from (i) any modification to the Licensed Software by Licensee or others without the approval of Licensor; (ii) any use or combination of the Licensed Software by Licensee or others with any other software, hardware or other materials not furnished or approved by Licensor for use with the Licensed Software; or (iii) the use of a superseded or altered version of the Licensed Software if infringement would have been avoided by the use of a current or unaltered version of the Software which Licensor made available to Licensee.

(b) Contractor's obligation to indemnify set forth in Article 9.1 is expressly conditioned on the following: (i) County must promptly notify Contractor of any such claim; (ii) County must in writing grant Contractor sole control of the defense of any such claim and of all negotiations for its settlement or compromise (if County chooses to represent its own interests in any such action, County may do so at its own expense, but such representation must not prejudice Contractor's right to control the defense of the claim and negotiate its settlement or compromise); and (iii) County must cooperate with Contractor to facilitate the settlement or defense of the claim at Contractor's expense.

(c) If the Licensed Software is, or in Contractor's opinion is likely to become, the subject of a United States Intellectual Property Right infringement claim, then Contractor, at its sole option and expense, will: (A) first use good faith, diligent efforts to obtain for County the right to continue using the Licensed Software under the terms of this Agreement; and failing Contractor's efforts to effect the remedy provided for in (A) above, will (B) replace the Licensed Software with products that are substantially equivalent in function, or modify the Licensed Software so that it becomes non-infringing and substantially equivalent in function or (C) refund to County the amount paid for the infringing Licensed Software.

(d) THE FOREGOING IS CONTRACTOR'S EXCLUSIVE OBLIGATION WITH RESPECT TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.

9.2. Intellectual Property Infringement Indemnification by County. County will indemnify Contractor against any claim for: (a) alleged infringement of any U.S. Intellectual Property Right of others, arising out of the use of the Software by County in any manner prohibited by this Agreement or the License Agreement; (b) any claim (other than a claim indemnified by Contractor pursuant to Article 9.1) related to or arising out of County's use or misuse of the Software; and (c) County's breach of its obligations under this Agreement or the License Agreement.

9.3. Other Indemnification by Contractor. Subject to the limitation set forth in Section 7, Contractor shall defend, indemnify and hold harmless the County, its officers, agents, servants or employees from and against any and all liabilities, losses, damages, costs, credits, penalties or charges, including reasonable attorneys' fees, suffered or incurred as a result of any claim for physical damage, loss or injury, including death, of any kind whatever to person or tangible personal property (including County records and data) caused by or resulting from the performance of Contractor, its agents, employees, representatives, or subcontractors under this Agreement; provided, however, that Contractor shall have no duty to indemnify or defend to the extent that any liabilities, losses, damages, costs, credits, penalties or charges result from the negligence or willful misconduct of the County, its officers, agents, servants or employees, or from the use of any Deliverable in a manner other than as instructed by Contractor.

ARTICLE 10 TERM AND TERMINATION

10.1. Term. The term of this Agreement shall be one (1) year from the Commencement Date (the "Initial Term"). The Agreement shall renew automatically for an additional one (1) year term at the end of the Initial Term or any renewal or extension thereof, unless either party gives the other party at least thirty (30) days advance written notice of intention to terminate the Agreement at the end of the then-existing term, or unless otherwise extended as agreed to by the parties in writing.

10.2. Termination Without Cause. Either party may unilaterally terminate this Agreement without cause by providing the other party at least thirty (30) days advance written notice pursuant to Section 12.8.

10.3. Termination For Cause. Either party may terminate this Agreement for cause under the following circumstances:

(a) In the event one party believes the other party is in material breach of this Agreement, that party shall give the breaching party written notice specifying the nature of the breach and an intention to terminate the Agreement if the breach is not cured in accordance with this provision. This written notice shall include, but is not limited to, a statement of the facts relating to the breach and the action required to cure the breach. The breaching party shall have thirty (30) business days from the receipt of such notice to cure the breach unless the breach is incapable of being cured within the thirty (30) business day period, in which case the Agreement may not be terminated if efforts to cure the breach are initiated within the thirty (30) business day period and diligently pursued to completion. In any event, if the breach is not cured within ninety (90) days after the receipt of written notice of the breach, the other party may terminate this Agreement effective immediately upon notice of termination to the breaching party.

(b) In the event either party shall (i) become insolvent, be placed into liquidation, or receivership, or involuntary bankruptcy, or voluntarily engage in any procedure for the settlement or postponement of debts or be adjudicated bankrupt, or (ii) commence dissolution proceedings, then the other party, as permitted by law, may immediately terminate this Agreement and any and all obligations assumed hereby (except as otherwise expressly provided for herein) by giving written notice of termination.

(c) Contractor may terminate this Agreement, without prejudice to any other remedy Contractor may have, immediately and without further obligation to the County, in the event that the License Agreement is terminated by either party for any reason.

10.4. Rights and Duties Upon Termination. Upon expiration or termination of this Agreement for any reason, each party agrees to return promptly to the other, or, at the request of the other party destroy, all copies of all Confidential Information of the other party, and in either event will certify in writing, over the signature of its duly authorized representative, that it has done so.

10.5. Effect of Expiration Or Termination. If this Agreement expires or is terminated for any reason, neither party will be liable to the other because of such expiration or termination for damages for the loss of prospective profits, anticipated sales, or good will; provided, however,

that expiration or termination of this Agreement will not relieve either party from its liability to pay any fees which have accrued to the other party as of the expiration or termination. Termination of this Agreement by either party for a breach will not limit either party's right to seek equitable or other appropriate relief relating to the breach.

ARTICLE 11 CONFIDENTIALITY

11.1. Confidentiality of Contractor's Confidential Information. The provisions for the protection of Contractor's Confidential Information, as defined in the License Agreement, are hereby incorporated into this Agreement by reference from the License Agreement as if fully set forth below.

11.2. Confidentiality of County's Confidential Information. Contractor agrees to keep as confidential all systems, programs, software, codes, storage media, reports, data, specifications and all other materials, knowledge, know-how and information provided by County in connection with this Agreement (all of which is hereafter referred to as "County Information"). Contractor warrants that it will not copy or use County Information at any time and in any manner, whether during the continuance of this Agreement or after its termination, except to the extent permitted under this Agreement and as necessary to Contractor's performance hereunder.

ARTICLE 12 GENERAL

12.1. Number and Gender. All terms and words used in this Agreement regardless of the number and gender in which they are used, will be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this Agreement or any paragraph or clause herein may require, the same as if such words have been fully and properly written in the number and gender.

12.2. Headings. The headings of sections and paragraphs, if any, to the extent used herein are for convenience and reference only, in no way define, limit or describe the scope or intent of any provision hereof, and therefore will not be used in construing or interpreting the provisions hereof.

12.3. County Delay. Contractor will provide the County with written notice of any delay, obstruction, or hindrance by County which materially affects Contractor's ability to perform its obligations under this Agreement, and such delay, obstruction or hindrance will excuse an equivalent delay in Contractor's performance of its obligations under this Agreement; provided, however, that any extension of the term of this Agreement shall require approval by the County Jail.

12.4. Consents and Approvals. Whenever the consent or approval of a party under this Agreement is required, the consent or approval, if required to be obtained from Contractor, must

be given by a Senior Vice President or the President of Contractor, and if required from County, must be given by an authorized representative of County.

12.5. Illinois Laws Govern. This Agreement shall be governed by and construed and enforced in accordance with the laws of Illinois.

12.6. Venue. This Agreement shall be deemed to have been made and performed in Peoria County, Illinois.

12.7. Contractor Status. Contractor is and shall at all times be an independent contractor and shall not be deemed an employee or agent of the County. Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership, joint venture, or a share of equity between the parties.

12.8. Notices. All notices and other communications required or permitted under this Agreement must be in writing and will be deemed given (i) when delivered personally; (ii) three (3) days after being sent by United States registered or certified mail, return receipt requested; or (iii) when delivered, if sent by overnight courier providing receipt of delivery. Notices must be sent to a party at its address shown below and to the attention of the person designated below, or to such other place or recipient as the party may subsequently designate for its receipt of notices.

COUNTY:

CONTRACTOR:

Chief Executive Officer
Digital Solutions, Inc.
4200 Industrial Park Drive
Altoona, PA 16602
814-944-0405

With Copy to:

Chief Operating Officer
Digital Solutions, Inc.
4200 Industrial Park Drive
Altoona, PA 16602

12.9. Force Majeure. Neither party will be liable to the other for any failure or delay in performance under this Agreement due to circumstances beyond its reasonable control, including Acts of God, acts of war, accident, labor disruption, acts, omissions and defaults of third parties and official, governmental and judicial action not the fault of the party failing or delaying in performance.

12.10. Assignment. Neither party may assign any of its rights or obligations under this Agreement, and any attempt at such assignment will be void without the prior written consent of the other party. For purposes of this Agreement, "assignment" shall include use of the Licensed Software for benefit of any third party to a merger, acquisition and/or other consolidation by, with or of County, including any new or surviving entity that results from such merger, acquisition and/or other consolidation

12.11. Severability; Waiver. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The waiver by either party of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.

12.12. Survival of Certain Provisions. In the event of any termination, the following provisions shall continue in full force and affect: (a) the obligation of County to make any undisputed payments due; (b) the confidentiality provisions set forth in Article 11; (c) the provisions set forth in Articles 7, 8, 9 and 12.

12.13. Successors. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this Agreement.

12.16. Entire Agreement. This Agreement (including all Exhibits) contains the entire understanding of the parties with respect to its subject matter, and supersedes and extinguishes all prior oral and written communications between the parties about its subject matter. No representations, understandings, agreements, or warranties, expressed or implied, have been made or relied upon in the making of this Agreement other than those specifically set forth. In the event of a conflict or inconsistency between this Agreement and any of the following Exhibits hereto, the following order of precedence shall apply, with the lower in number controlling:

- A. This contract
- B. Exhibit A – Scope of Work
- C. Exhibit B – Payment Schedule
- D. Exhibit C – Project Schedule
- E. DSI's written RFP Response (March 24, 2008) (Exhibit D)
- F. Addendum #7 to the RFP (March 13, 2008) (Exhibit E)
- G. Addendum #5 to the RFP (March 11, 2008) (Exhibit F)
- H. Addendum #4 to the RFP (March 10, 2008) (Exhibit G)
- I. Addendum #3 to the RFP (March 11, 2008) (Exhibit H)
- J. Addendum #2 to the RFP (March 5, 2008) (Exhibit I)
- K. Addendum #1 to the RFP (March 3, 2008) (Exhibit J)
- L. Peoria County Bid #12-03-08, Request for Proposals for Jail Management Information System (Exhibit K)
- M. All Attachments referenced by Bid #12-03-08

12.17. Authority. Each party to this Agreement warrants and represents that the party has the unrestricted right and requisite authority to execute, deliver and perform under this Agreement. Each party further warrants and represents that the execution of this Agreement has been duly authorized and that the signatory below has the legal authority to enter a binding contract on behalf of the party, and that all actions, resolutions and/or express authorizations required to be obtained prior to entering this Agreement have been taken, passed and/or obtained.

12.18 Modification of Agreement. No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by both parties.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in three counterparts, each to be considered as an original by their authorized representative, the day and hereinabove written.

DIGITAL SOLUTIONS, INC.

By: [Signature] (Seal)
Signature

James P. Rokosky
Name (Typed or Printed)

Chief Operating Officer
Title

CUSTOMER NAME

By: [Signature] (Seal)
Signature

PATRICK URICH
Name (Typed or Printed)

COUNTY ADMINISTRATOR
Title

ATTEST:

By: [Signature] (Seal)
Signature

Sierra L Mountain
Name (Typed or Printed)

Administrative Asst.
Title

ATTEST:

By: [Signature] (Seal)
Signature

R. STEVE SONNENBAKER
Name (Typed or Printed)

PEORIA COUNTY CLERK
Title