



## **SERVICES AGREEMENT**

This Agreement is by and between Uptrust, Inc., a Delaware Public Benefit Corporation (“Service Provider”) with an office at 156 2<sup>nd</sup> Street, San Francisco, California 94105, and Lancaster County Public Defender’s Office (“Client”) with an address of Courthouse Plaza, 633 South 9<sup>th</sup> Street, Lincoln, Nebraska 68508 (each, a “party”; collectively, the “parties”), and is effective on January 1, 2020 (the “Effective Date”).

Client enlists Service Provider to supply to Client certain services (“Services”) pursuant to one or more addenda to this Agreement (“Services Addendum”).

For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and intending to be legally bound, the parties agree as follows:

1. **ENGAGEMENT** Client hereby engages Service Provider to provide Services as set forth in the Services Addenda at the charges set forth therein.
2. **PAYMENT; SUSPENSION OR TERMINATION OF SERVICES** Monthly charges will be invoiced at the beginning of each month in which the Services are to be provided and payment is due in thirty days of receipt of invoice. In addition to any other remedies it may have, Service Provider shall have the right to suspend the performance of Services, or to terminate this Agreement, if Client fails to make payment within the time permitted for doing so under this Agreement.
3. **TERM** The term of this Agreement will begin on the Effective Date and will continue for twelve months (12) with an option to renew for an additional term of twelve months (12) of licensing unless terminated earlier in accordance with this Agreement. Either party may terminate the Agreement if the other party breaches any of its terms if such breach is capable of cure, fails to cure such breach within thirty (30) days of receiving written notice specifying the breach.
4. **DISCLAIMER OF WARRANTIES** Services furnished under this Agreement are provided “as is” and, unless otherwise expressly stated in this instrument, without representations or warranties of any kind, either express or implied. To the fullest extent permitted by law, Service Provider disclaims all warranties, express, implied or statutory, including, but not limited to, implied warranties of title, non-infringement, merchantability, and fitness for a particular purpose. Service Provider does not guarantee that Client’s use of the Services will produce any



specific results. Service Provider does not warrant that use of software or equipment furnished by Service Provider will be uninterrupted, error-free, non-infringing, or secure, or that defects will be corrected.

5. **LIMITATION OF LIABILITY** In no event shall Service Provider be liable to the Client or any other party for any special, exemplary, incidental, or consequential damages, including but not limited to lost profits, whether arising out of contract, tort, strict liability or otherwise. In no event shall Service Provider's liability to Client exceed amounts paid by Client to Service Provider during the twelve months preceding the date upon which a claim arose.
6. **ACTIONS** No action, regardless of form (including in contract, tort or otherwise), arising in connection with the performance of this Agreement may be brought by either party more than one (1) year after the date of the occurrence on which the action is based.
7. **PUBLICITY** Service Provider may link from Service Provider's website to Client's website and may include Client's name and general case study information within Service Provider's marketing materials. Any other use of Client's name and content (including Client's website content) will be subject to Client's prior written approval, which may be in the form of an e-mail and which will not be unreasonably withheld, conditioned, or delayed.
8. **CONFIDENTIALITY** Any Confidential Information provided to or developed by either Party in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by such Party without the prior written approval of the other Party. For purposes of this Agreement, "Confidential Information" means information not generally known or available in the public domain, information identified as Confidential Information by either party, and information entrusted to either Party in confidence by third parties. This confidentiality provision shall survive the termination of this Agreement. Confidential Information shall not include information that:
  - At the time of disclosure or thereafter becomes published or otherwise part of the public domain without breach of this Agreement by either Party;
  - Is subsequently disclosed to a Party by a third party who has the right to make such disclosure;



- Is developed by a Party independently of Confidential Information or other information received from the other Party and such independent development can be properly demonstrated by such Party;
  - Is necessary to be disclosed to agents, consultants, affiliates, and/or other third parties for the services to be provided in accordance with this Agreement on the condition that such third parties agree to be bound by the confidentiality obligations contained in this Agreement; or
  - Is required to be disclosed by law, or court order.
9. **IP OWNERSHIP** Client hereby grants to Service Provider a perpetual, personal, nonexclusive, non-transferable, non-sublicensable license to use any data generated through the use of the Uptrust System (other than personally identifiable data) for the term of this Agreement for the sole purpose of improving the services of Contractor. No license, express or implied, is granted except as provided herein. Title to the Contractor's software and the Uptrust System and all copies thereof shall be and remain in Contractor, and no title to or ownership of the Contractor software or the Uptrust System or any portion thereof is conveyed or transferred to the County.
10. **MISCELLANEOUS** This instrument, with attached exhibits, contains the entire agreement of the parties and supersedes any previous agreement on the same subject matter between them. No amendments or variations of the terms and conditions of this agreement shall be valid unless the same are in writing and signed by all parties hereto. Client may not assign this Agreement without the permission of Service Provider. Service Provider is an independent contractor and nothing herein shall be construed as inconsistent with that relationship or status. If any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the other provisions hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein. Service Provider shall not be liable to Client for any failure or delay caused by events beyond Service Provider's control, including, without limitation, Client's failure to furnish necessary information. The headings contained herein are for convenience of reference only and are not to be used in interpreting this agreement. This agreement shall be construed and enforced pursuant to the laws of the State of California. All disputes hereunder will be resolved via binding arbitration under the rules of the American Arbitration Association, with arbitration to take place in Lincoln, Nebraska. This



agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one document. Any provision of this Agreement or an Addendum which expressly or by its nature is intended to survive its expiration or termination, including Client's payment obligations, will survive its expiration or termination.

SERVICE PROVIDER:

CLIENT:

By: \_\_\_\_\_

JACOB SILLS  
CHIEF EXECUTIVE OFFICER  
UPTRUST

By: \_\_\_\_\_

SEAN FLOWERDAY  
CHAIR  
LANCASTER COUNTY BOARD OF COMMISSIONERS

Date:

Date:



## **SERVICES ADDENDUM**

### **DESCRIPTION:**

Provide Uptrust service to all clients of the Office of the Lancaster County Public Defender to facilitate court appearances through client engagement and text message reminders.

### **DURATION OF SERVICES:**

Under this agreement, Service Provider will provide its service for twelve months with an option by Client to extend services for an additional twelve months. This includes completing an integration with Client's case management system, in-person training upon launch, as well as a customer support.

### **WHAT'S INCLUDED:**

- Completion of integration with Client's IT system - DefenderData.
- Customized software to facilitate client communication and engagement.
- In-person training upon launch.
- Customized text message copy for Client.
- Weekly carrier checks to ascertain operability for all client phone numbers.
- Unlimited two-way text messaging for the duration of the agreement.
- 24-7 customer support and maintenance and in-person training by Service Provider.
- Real-time status reports re: text messages, Failure To Appear rates and other key metrics.
- Development of customized dashboard with Failure to Appear data and root causes.
- Ongoing dialogue and consulting around Failure to Appear reduction best practices.

### **COST:**

- One-time integration and customization fee of \$15,000 is waived.
- First year of service at no cost to the Lancaster County Office of the Public Defender with no obligation to renew contract after first year.
- Discounted cost of service: After 1<sup>st</sup> year the service cost is \$834 per month inclusive of all costs. Service to be provided to all clients of the Lancaster County Office of the Public Defender.
- The discounted cost of service will be available until December 31, 2024.
- Contracts will be one year (12 months in duration).