

## **AGREEMENT WITH ATIMS TO PROVIDE JAIL MANAGEMENT SOFTWARE SERVICES**

THIS AGREEMENT is made and entered into this 18th day of January, 2022 by and between Act 1 Group, Inc., a California corporation doing business as Advanced Technology Information Management Systems, (“ATIMS” or “Consultant”), and the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California (“City”).

### **RECITALS**

- A. The City desires to retain a consultant having special skill and knowledge in the field of providing warranty, support, and maintenance services for the Jail Management Software (“JMS”) implementation for the Santa Ana Detention Facility.
- B. Consultant represents that Consultant is able and willing to provide such services to the City.
- C. City and Consultant agree, that if this agreement is approved by the City Council, that services provided by the Consultant from December 19, 2021 through January 18, 2022, will be recognized as work performed in furtherance of this Agreement and will be compensated per the terms set forth below.
- D. In undertaking the performance of this Agreement, Consultant represents that it is knowledgeable in its field and that any services performed by Consultant under this Agreement will be performed in compliance with such standards as may reasonably be expected from a professional consulting firm in the field.

**NOW THEREFORE**, in consideration of the mutual and respective promises, and subject to the terms and conditions hereinafter set forth, the parties agree as follows:

### **1. SCOPE OF SERVICES**

Consultant shall perform during the term of this Agreement, the tasks and obligations including all labor, materials, tools, equipment, and incidental customary work required to fully and adequately complete the services described and set forth in the attached **Scopes of Service**, identified as **Exhibits A** and **B**, attached hereto and incorporated by reference.

### **2. COMPENSATION**

- a. City agrees to pay, and Consultant agrees to accept as total payment for its services for City, the rates and charges identified as **Exhibits A** and **B**. The total amount for this Agreement shall not exceed \$268,223. The sum of this amount shall include a contingency amount of \$30,000 for work assigned at the sole discretion of the City.
- b. Payment by City shall be made within 45 days (forty-five) days following receipt of proper invoice evidencing work performed, subject to City accounting procedures.

Payment need not be made for work which fails to meet the standards of performance set forth in the Recitals which may reasonably be expected by City.

### **3. TERM**

This Agreement shall commence on January 18, 2022, and continue through December 18, 2024, unless terminated earlier in accordance with Section 16, below.

### **4. INDEPENDENT CONTRACTOR**

Consultant shall, during the entire term of this Agreement, be construed to be an independent contractor and not an employee of the City. This Agreement is not intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Consultant performs the services which are the subject matter of this Agreement; however, the services to be provided by Consultant shall be provided in a manner consistent with all applicable standards and regulations governing such services. Consultant shall pay all salaries and wages, employer's social security taxes, unemployment insurance and similar taxes relating to employees and shall be responsible for all applicable withholding taxes.

### **5. OWNERSHIP OF MATERIALS**

This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). Consultant shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were provided to Consultant by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

### **6. INSURANCE**

Vendor/Consultant shall procure and maintain for the duration of the contract insurance against claims for security breaches, system failures, injuries to persons, damages to software, or damages to property (including computer equipment) which may arise from or in connection with the performance of the work hereunder by the Vendor, its agents, representatives, or employees. Vendor shall procure and maintain for the duration of the contract insurance claims arising out of their services and including, but not limited to loss, damage, theft or other misuse of data, infringement of intellectual property, invasion of privacy and breach of data.

## MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. Cyber Liability Insurance, with limits not less than **\$2,000,000** per occurrence or claim, **\$2,000,000** aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.
  - **Technology Professional Liability Errors & Omissions**  
**Technology Professional Liability Errors and Omissions Insurance** appropriate to the Consultant’s profession and work hereunder, with limits not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.
    - a. The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information “property” of the Agency in the care, custody, or control of the Vendor. If not covered under the Vendor’s liability policy, such “property” coverage of the Agency may be endorsed onto the Vendor’s Cyber Liability Policy as covered property as follows:

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

### Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

### ***Additional Insured Status***

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

Please note, if there is an insured vs. insured exclusion on the vendor's policy, carefully review with the vendor and their insurance carrier on whether being added as an additional insured onto the vendor's policy removes your organization's ability to file suit against the vendor and draw upon the policy should final adjudication in a lawsuit state that the vendor shall pay damages to your organization.

### ***Primary Coverage***

For any claims related to this contract, the **Vendor's insurance coverage shall be primary**. Coverage for commercial liability shall be at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Vendor's insurance and shall not contribute with it.

### ***Notice of Cancellation***

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the City**.

### ***Waiver of Subrogation***

Vendor hereby grants to City a waiver of any right to subrogation which any insurer of said Vendor may acquire against the City by virtue of the payment of any loss under such insurance. Vendor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

### ***Self-Insured Retentions***

Self-insured retentions must be declared to and approved by the City. The City may require the Vendor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

### ***Acceptability of Insurers***

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to the City.

### ***Claims Made Policies***

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided *for at least five (5) years after completion of the contract of work*.
3. If coverage is canceled or non-renewed, and not *replaced with another claims-made policy form with a Retroactive Date* prior to the contract effective date, the Vendor must purchase “extended reporting” coverage for a minimum of *five (5)* years after completion of contract work.

#### ***Verification of Coverage***

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

#### ***Subcontractors***

Vendor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Vendor shall ensure that City is an additional insured on insurance required from subcontractors.

#### ***Special Risks or Circumstances***

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

### **7. INDEMNIFICATION**

Consultant agrees to defend, and shall indemnify and hold harmless the City, its officers, agents, employees, contractors, special counsel, and representatives from liability: (1) for personal injury, damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including death, and claims for property damage, which may arise from the negligent operations of the Consultant, its subcontractors, agents, employees, or other persons acting on its behalf which relates to the services described in section 1 of this Agreement; and (2) from any claim that personal injury, damages, just compensation, restitution, judicial or equitable relief is due by reason of the terms of or effects arising from this Agreement, but only to the extent that any such claim is not caused by the negligent operations of the City. This indemnity and hold harmless agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered, or alleged to have been suffered, by reason of the events referred to in this Section or by reason of the terms of, or effects, arising from this Agreement. The Consultant further agrees to indemnify, hold harmless, and pay all costs for the defense of the City, including fees and costs for special counsel to be selected by the City, regarding any action by a third party challenging the validity of this Agreement, or asserting that personal injury, damages, just compensation, restitution, judicial or equitable relief due to personal or property rights arises by reason of the terms of, or effects arising from this Agreement. City may make all reasonable

decisions with respect to its representation in any legal proceeding. Notwithstanding the foregoing, to the extent Consultant's services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

## **8. INTELLECTUAL PROPERTY INDEMNIFICATION**

Consultant shall defend and indemnify the City, its officers, agents, representatives, and employees against any and all liability, including costs, for infringement of any United States' letters patent, trademark, or copyright infringement, including costs, contained in the work product or documents provided by Consultant to the City pursuant to this Agreement, except for any liability caused by the modification of the work product or documents not done at the direction of ATIMS.

## **9. RECORDS**

Consultant shall keep records and invoices in connection with the work to be performed under this Agreement. Consultant shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any services, expenditures, and disbursements charged to the City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such records and invoices shall be clearly identifiable. Consultant shall allow a representative of the City to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement during regular business hours. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment to Consultant under this Agreement.

## **10. CONFIDENTIALITY**

If Consultant receives from the City information which due to the nature of such information is reasonably understood to be confidential and/or proprietary, Consultant agrees that it shall not use or disclose such information except in the performance of this Agreement, and further agrees to exercise the same degree of care it uses to protect its own information of like importance, but in no event less than reasonable care. "Confidential Information" shall include all nonpublic information. Confidential information includes not only written information, but also information transferred orally, visually, electronically, or by other means. Confidential information disclosed to either party by any subsidiary and/or agent of the other party is covered by this Agreement. The foregoing obligations of non-use and nondisclosure shall not apply to any information that (a) has been disclosed in publicly available sources; (b) is, through no fault of the Consultant disclosed in a publicly available source; (c) is in rightful possession of the Consultant without an obligation of confidentiality; (d) is required to be disclosed by operation of law; or (e) is independently developed by the Consultant without reference to information disclosed by the City.

## **11. CONFLICT OF INTEREST CLAUSE**

Consultant covenants that it presently has no interests and shall not have interests, direct or indirect, which would conflict in any manner with performance of services specified under this Agreement.

## **12. NON-DISCRIMINATION**

Consultant shall not discriminate because of race, color, creed, religion, sex, marital status, sexual orientation, gender identity, gender expression, gender, medical conditions, genetic information, or military and veteran status, age, national origin, ancestry, or disability, as defined and prohibited by applicable law, in the recruitment, selection, teaching, training, utilization, promotion, termination or other employment related activities or any services provided under this Agreement. Consultant affirms that it is an equal opportunity employer and shall comply with all applicable federal, state and local laws and regulations.

## **13. EXCLUSIVITY AND AMENDMENT**

This Agreement represents the complete and exclusive statement between the City and Consultant, and supersedes any and all other agreements, oral or written, between the parties. In the event of a conflict between the terms of this Agreement and any attachments hereto, the terms of this Agreement shall prevail. This Agreement may not be modified except by written instrument signed by the City and by an authorized representative of Consultant. The parties agree that any terms or conditions of any purchase order or other instrument that are inconsistent with, or in addition to, the terms and conditions hereof, shall not bind or obligate Consultant or the City. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein.

## **14. ASSIGNMENT**

Inasmuch as this Agreement is intended to secure the specialized services of Consultant, Consultant may not assign, transfer, delegate, or subcontract any interest herein without the prior written consent of the City and any such assignment, transfer, delegation or subcontract without the City's prior written consent shall be considered null and void. Nothing in this Agreement shall be construed to limit the City's ability to have any of the services which are the subject to this Agreement performed by City personnel or by other consultants retained by City.

## **15. TERMINATION**

This Agreement may be terminated by the City upon thirty (30) days written notice of termination. In such event, Consultant shall be entitled to receive and the City shall pay Consultant compensation for all services performed by Consultant prior to receipt of such notice of termination, subject to the following conditions:

- a. As a condition of such payment, the Executive Director may require Consultant to deliver to the City all work product(s) completed as of such date, and in such case

such work product shall be the property of the City unless prohibited by law, and Consultant consents to the City's use thereof for such purposes as the City deems appropriate.

- b. Payment need not be made for work which fails to meet the standard of performance specified in the Recitals of this Agreement.

## **16. WAIVER**

No waiver of breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure or right, or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

## **17. JURISDICTION - VENUE**

This Agreement has been executed and delivered in the State of California and the validity, interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. Both parties further agree that Orange County, California, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

## **18. PROFESSIONAL LICENSES**

Consultant shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, waivers, and exemptions necessary for the provision of the services hereunder and required by the laws and regulations of the United States, the State of California, the City of Santa Ana and all other governmental agencies. Consultant shall notify the City immediately and in writing of its inability to obtain or maintain such permits, licenses, approvals, waivers, and exemptions. Said inability shall be cause for termination of this Agreement.

## **19. MISCELLANEOUS PROVISIONS**

- a. Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and shall indemnify City fully, including reasonable costs and attorney's fees, for any injuries or damages to City in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.
- b. The Agreement is the final and complete agreement and any prior or contemporaneous agreements for similar services between the parties is superseded by this Agreement. This shall not apply where the Parties are currently engaged and Consultant is providing services not contemplated by this Agreement.
- c. All Exhibits referenced herein and attached hereto shall be incorporated as if fully set forth in the body of this Agreement.



## **20. NOTICE**

Any notice, tender, demand, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered in person or mailed by first class or certified mail, postage prepaid, or sent by fax or other telegraphic communication in the manner provided in this Section, to the following persons:

To City:

Clerk of the City Council  
City of Santa Ana  
20 Civic Center Plaza (M-30)  
P.O. Box 1988  
Santa Ana, CA 92702-1988  
Fax: 714- 647-6956

With courtesy copies to:

Chief of Police  
City of Santa Ana  
20 Civic Center Plaza (M-97)  
P.O. Box 1988  
Santa Ana, California 92702  
Fax: 714-714-245-8007

To Consultant:

The ACT 1 Group, Inc. dba ATIMS  
Attn: Director, Professional Services  
9638 Topanga Canyon Place, #B  
Chatsworth, CA 91311  
E-mail: Flo Ferrera (flof@atims.com)

A party may change its address by giving notice in writing to the other party. Thereafter, any communication shall be addressed and transmitted to the new address. If sent by mail, communication shall be effective or deemed to have been given three (3) days after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. If sent by fax, communication shall be effective or deemed to have been given twenty-four (24) hours after the time set forth on the transmission report issued by the transmitting facsimile machine, addressed as set forth above. For purposes of calculating these time frames, weekends, federal, state, County or City holidays shall be excluded.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date and year first above written.

**ATTEST:**

**CITY OF SANTA ANA**

\_\_\_\_\_  
Daisy Gomez  
Clerk of the Council

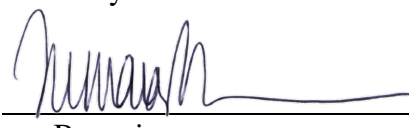
\_\_\_\_\_  
Kristine Ridge  
City Manager

**APPROVED AS TO FORM:**

SONIA R. CARVALHO  
City Attorney

**ATIMS:**



By:   
\_\_\_\_\_  
Tamara Bogosian  
Senior Assistant City Attorney

\_\_\_\_\_  
Felix Rabinovich  
Vice President

**RECOMMENDED FOR APPROVAL:**

\_\_\_\_\_  
DAVID VALENTIN  
Chief of Police



# InCustody Core & InCustody Plus+ JMS

## WARRANTY & SUPPORT & MAINTENANCE

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### WARRANTY

ATIMS represents, warrants and agrees that the Services do not contain and Agency will not receive from ATIMS any virus, worm, trap door, back door, timer, clock, counter or other limiting routine, instruction or design, or other malicious, illicit or similar unrequested code, including surveillance software or routines which may, or is designed to, permit access by any person, or on its own, to erase, or otherwise harm or modify any Agency system or Data

ATIMS represents, warrants and agrees that ATIMS has all Intellectual Property Rights necessary to provide the Services to Agency in accordance with the terms of this Agreement; ATIMS is the sole owner or is a valid licensee of all software, text, pictures, audio, video, logos and copy that provides the foundation for provision of the Services, and has secured all necessary licenses, consents, and authorizations with respect to the use of these underlying elements; the Services do not and shall not infringe upon any patent, copyright, trademark or other proprietary right or violate any trade secret or other contractual right of any Third Party; and there is currently no actual or threatened suit against ATIMS by any Third Party based on an alleged violation of such right.

### SUPPORT & MAINTENANCE

ATIMS' Support and Maintenance for the JMS implementation will commence at Go Live and be in effect for the duration of the contract.

ATIMS' Software Support and Maintenance provides customers with fixes, upgrades and updates to licensed software released during the maintenance period. Additional fees may be charged for upgrades that exceed more than one major or minor version of the software annually.

Additionally, ATIMS' annual Software Support and Maintenance may include an allotted number of hours (value) towards training, and customized form, report and interface development. The value of a service category description can be used towards another category in that year's allotment, as long as the total cost does not exceed the allowable amount as shown (with the different hourly cost/value). If unused, this value can be carried forward up to two years at which time it expires. Hours are added in at the contract anniversary.

ATIMS software maintenance and support includes the following services as part of the Annual Maintenance and Support Contract:

- Remote Troubleshooting and Support provided by Support Desk staff via the telephone and online channels
- Basic Installation Assistance & Usability Assistance by Support Desk staff

# InCustody Core & InCustody Plus+ JMS

## WARRANTY & SUPPORT & MAINTENANCE

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- Software upgrades and updates (version releases)
- Customization and Enhancement Support (total hours as specified in the Annual ATIMS Client Support Table) – this is a recommendation from ATIMS and hours/price can be adjusted (up or down) to meet the client’s need
- Training Support (total hours as specified in the Annual ATIMS Client Support Table) – this is a recommendation from ATIMS and hours/price can be adjusted (up or down) to meet the client’s need.

Support requests outside the original scope of work or Annual ATIMS Client Support hours/total available price can be provided by ATIMS technical staff at the standard billing rates included in the Support & Maintenance Agreement in the Appendices.

Hardware: ATIMS does not typically procure hardware unless required by the agency and included within the contract. The hardware vendor is responsible for all warranty, support and maintenance of hardware.

### **SUPPORT - CUSTOMER / TECHNICAL**

ATIMS provides a 24/7 phone hotline as well as a support email address. The email is monitored and responded to during regular business hours by two U.S. based ATIMS help desk staff; while the hotline is answered 24/7. ATIMS maintains a full complement of professional staff to support our JMS implementations and follow-on customer and technical support. There is a team of 10 engineers that work on new development as well as outstanding issues. Any technical issues that are discovered during development or implementation of enhancements are tracked and maintained by the ATIMS Project Manager utilizing our tracking software, JIRA. Any issues that come up after Go Live are tracked through the Customer Support team. All ATIMS JMS associated issues (or bugs) are tracked through JIRA to ensure consistency.

ATIMS will provide telephone, email and on-site support to maintain the products and other solutions / customizations provided by ATIMS. Remote diagnostics will always be the first course of action to resolve an incident or technical assistance prior to an on-site visit being scheduled.

If a problem occurs which significantly impacts the customer’s usage of the licensed product and the issue remains unidentified or unresolved either by workaround or permanent correction after the customer has followed ATIMS prescribed actions, ATIMS, at our discretion, will make available a support technician at the customer location during regular Business Days and Hours, 8:00AM – 5:00PM Pacific Standard Time, Monday through Friday, excluding ATIMS holidays. ATIMS’ Holiday Schedule will be provided at the end of each year for the following calendar year. ATIMS

additionally provides critical support twenty-four hours a day / seven days a week. Critical support is defined as any issue that

- Causes the ATIMS system to stop running agency wide
- Is or has a potential to become security incident
- Prevents any essential or required data elements from entry

The support technician will arrive within a reasonable period of time keeping the Agency fully informed during this period. PSS for on-site visits that require air travel will be arranged on a case-by-case basis and the travel cost will be confirmed with the customer prior to booking.

ATIMS will provide or make available:

- 1) Assistance in diagnosis and identification of errors or malfunctions.
- 2) On-site consultation on correction of identified errors or malfunctions.
- 3) Detailed feedback on external factors that had a direct or indirect impact on the licensed software resulting in performance deficiencies.

The customer will bear the full responsibility for backing up its databases and/or data files according to industry standard practices. The customer will not hold ATIMS, its agents, successors or assignees liable in any way for consequences resulting from lost data caused by the unavailability of appropriate back-up data.

The tasks provided under this program do not include duties normally associated with on-going Network Administrator tasks. Additional tasks like recovery of databases and/or data files that were not properly backed up, and normal database administration tasks (reorganizing database, running backups, restoring databases, reviewing logs, updating statistics, capacity planning, etc.) are offered as part of the Professional Services agreement and Customer will be billed at the hourly rate listed in Appendix B of ATIMS Annual Maintenance & Support Agreement.

### **Frequency of patches, service packs and version upgrades**

As part of the ATIMS JMS Support & Maintenance Agreement, software enhancements, patches and fixes are pushed out twice a year, at a minimum – up to quarterly, dependent upon the urgency, priority or need. ATIMS is continually upgrading our software to meet new client needs and improve upon current functionality. ATIMS JMS clients are notified of version updates when they are available and a list of the changes are documented and provided for their review. The new version can be loaded in the test environment to give the clients time to test the new version and decide when/if they are ready to deploy. ATIMS does not require a client to update the

software. Often the client will wait because the change will require training or they do not utilize some of the updates completed for other clients.

ATIMS follows best practices in Software Development Lifecycle (SDLC) in regards to software development, testing, and deployment. The updates of the core product are unit tested by the engineering team; then User Acceptance Test (UAT) is performed by independent Quality Control (QC) team. Clients have an option to install new release in test environment and conduct UAT of the new release with client-specific configuration items.

ATIMS JMS use a combination of industry-standard procedures to maintain consistency across the environments:

- Base code after QA and release from ATIMS engineering group is deployed to the environment (that is, binaries don't change in the environment);
- Configuration items (CI) are moved from one environment to another using "from-to" scripts. Examples of such configuration items would be wizard steps, Functionality permissions, etc. Changes in Wizard steps are made in test environment, tested there, and upon approval by stakeholders are migrated to production environment through scripts.
- Lists of Values can be either promoted from one environment to another through "from-to" scripts; however, they are more likely to be loaded from comma-separated files. For example, list of charges is usually distributed by Federal or State government and loaded into the system from a spreadsheet. ATIMS supports this type of updates. Alternatively, the list can be loaded into test environment from a spreadsheet; then some charges ("not bookable" and therefore not applicable to JMS) are removed, and finally "right" charges are promoted to production environment.

### Production Service Levels

If Agency personnel experience a system problem, they will call the Agency's internal help desk to log an incident. The help desk will notify the internal on-call support analyst who will attempt to determine if the problem is caused by the internal infrastructure (e.g. server down, network down, pc problem) and forward to the application service provider if the problem resides with the application.

If the issue is identified to be an issue with the software, the Agency's system support team will contact ATIMS who will log the information and determine if it requires Tier 1 or 2 support. If Tier 1, ATIMS will resolve the issue directly and log it in the JIRA issue tracker as resolved. If the issue requires Tier 2 support, will log it in their tracking software and start researching. In the

case of an CMS Tier 1 or 2 issue, ATIMS will respond to Support Calls according to the following Service Levels:

- Service Response time refers to the maximum elapsed time after problem logged for investigation and action by the ATIMS. ATIMS will communicate with the Agency's internal software support team, providing an action plan.
- Resolution Status Update Frequency refers to the maximum time elapsed after problem has been initially logged before a status update is provided to the Agency. ATIMS will continue to provide status updates to the Agency within this frequency interval until the problem is resolved.
- Service Resolution time goal refers to the objective for the maximum elapsed time after problem is logged for some sort of problem resolution to be provided.

Service Levels will be determined in accordance with the following:

### Emergency

- System down during critical support times complete core functions or critical processes of the Jail Management System
- Security breaches and other security issues

### High

- System down (Software Application)
- Inability to complete core functions or critical processes of the Jail Management System
- Program errors without workarounds
- Incorrect calculation errors impacting records
- Performance issues of severe nature impacting critical processes

### Medium

- System errors that have workarounds
- Performance issues not impacting critical processes
- Usability issues
- Reporting Issues

### Low

- Report formatting
- Aesthetic issues



# InCustody Core & InCustody Plus+ JMS

## WARRANTY & SUPPORT & MAINTENANCE

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- Recommendations for enhancements on system changes

ATIMS will make every effort to provide a problem resolution within the stated Service Resolution time goal. Software remedies shall be reviewed and accepted by ATIMS.

### **MONITORING TOOLS (REMOTE ACCESS CAPABILITIES)**

The ATIMS JMS integrates with Enterprise monitoring tools that the agency employs (eg., Microsoft System Center or similar APM tools from CA, New Relic and other vendors). These tools allow notification of support staff in case key parameters (CPU, memory, swap file, etc.) fall below predetermined thresholds.

For remote access and support, we typically have VPN connectivity to client environments. Specific details are defined as part of implementation, consistent with agency's security policies and CJIS Security guidelines.

### **DOCUMENTATION**

Electronic documentation is provided within the ATIMS JMS software via the Reference button. This documentation is updated to ensure the incorporation of new JMS features and functionality via version releases is included. Hard copy documentation is created during implementation geared specifically to the Agency's workflow and wizard step process. These module guides are used during staff training and are provided to the Agency in electronic format for editing and/or distribution. Documentation that is Agency created/edited can be stored in the Reference section of JMS and can remain there as long as the Agency needs; it will not be affected by JMS updates.





## Annual Maintenance Quote

Requested Pricing Agreement for: **Santa Ana Police Dept.**

Date: November 24, 2021

Santa Ana Police Dept.  
Boris Duran-Police Systems Mgr.  
60 Civic Center Plaza  
Santa Ana, CA 92702

### Requested Maintenance Period:

	Quantity	Total
Maintenance for JMS 12-19-2021 to 12-18-2022	1	\$ 75,566.00
Maintenance for JMS 12-19-2022 to 12-18-2023	1	\$ 79,345.00
Maintenance for JMS 12-19-2023 to 12-18-2024	1	\$ 83,312.00
	<b>Total Cost</b>	<b>\$ 238,223.00</b>

*~Quote is valid for 30 days*

**IN WITNESS WHEREOF**, the party has caused this Pricing Agreement to be executed by their duly authorized representative on the date(s) shown below.

Accepted and Approved by Customer:

Signed: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2021