AGENDA ITEM FOR ADMINISTRATIVE MEETING   ( ) Discussion only
                                               ( ) Action

FROM (DEPT/ DIVISION): Sheriff's Office

PROGRAM: Jail

SUBJECT: Pigeonly: a mail service for inmates and families

Background:	( ) ACTION REQUESTED:
We have seen a rise across the nation in contraband being mailed in to inmates. **Contraband places both staff and inmates in danger.** **We do not have the time or equipment to thoroughly inspect and catch every piece of contraband.** **For a minimal amount of $4 per inmate per month we can virtually eliminate this issue.** **Pigeonly allows for an annual contract which can be adjusted each year based on the Average Daily Population.** **For the remainder of this fiscal year, we would be billed $480/month for this service.**	We respectfully request the approval to move forward with a contract with Pigeonly for the remainder of this Fiscal Year and to continue with a new contract for next Fiscal Year.

ATTACHMENTS: Proposed Service Agreement, short description of options
Date: (12/27/22)   Submitted By: (Lt. Dustin Erickson)

*************For Internal Use Only************

Checkoffs:
(   ) Exec. Asst.   To be notified of Meeting:
(₳F) Dept. Head (copy)   Sheriff Terry Rowan, Capt. Kenny Franks, Lt. Dustin Erickson
(   ) Human Resources (copy)
(   ) Budget (copy)
(   ) Fiscal
(   ) Legal (copy)   Needed at Meeting:
(   ) (Other - List:)   Lt. Dustin Erickson, Capt. Kenny Franks

PLEASE RETURN THIS FORM AND ATTACHMENTS TO Executive Assistant
****

Scheduled for meeting on: ___January 4, 2022_____

Action taken:

****
Follow-up:

SOFTWARE AS SERVICE AGREEMENT

BETWEEN: PIGEONLY, INC. ("Pigeonly"), a corporation organized and existing under the laws of Delaware, with its principal place of business located at: PIGEONLY, LLC - 2252 East Pama Lane, Las Vegas, NV 89119;

AND: Umatilla County Sheriff's Office (USCO) ("the "Customer"), organized and existing under the laws of Oregon with its principal place of business located at: 4700 NW Pioneer Pl – Pendleton, Oregon 97801

Pigeonly and Customer may each be referred to in this Agreement as "Party" and together, as the "Parties".

WHEREAS, Customer has the responsibility of reviewing and distributing inmate mail at Customer's facilities, known as the UCSO and detecting contraband and other items prohibited to enter Customer's facility through inmate mail, the Customer seeks to obtain Software and Services to assist them with this responsibility. The Customer is granted a license to use the Pigeonly's Software, subject to a set of limitations and restrictions.

WHEREAS, Pigeonly undertakes to provide high performance Software while committing to comply with certain requirements relating to the maintenance and use of the Software and shall provide Customer those services set forth in this Service Agreement.

Now therefore, in consideration of the mutual agreements here in after set forth, and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties, intending to be legally bound, and agree as follows:

1. DEFINITIONS

"Administrator User" means each Customer employee designated by Customer to serve as technical administrator of the Services on Customer's behalf.

"Confidential Information" means any information disclosed by a Party to the other Party, directly or indirectly, which could be orally or in written graphic, machine – readable or other tangible form, and/or is marked as "confidential" or "proprietary".

"Customer Systems" means the Customer's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems) and networks, whether operated directly by Customer or through the use of third-party services, utilized by the Customer to access the Software and any related applications for the Services.

"Contraband" any hazardous materials found by Pigeonly Staff when opening parcels (hazardous materials can include but not limited to the following: Controlled Substances, Weapons, Illegal Drugs and any other substance deemed hazardous Item(s) found during our initial inspection.

"Documentation" refers to all data, work and materials stored, uploaded, and supplied by Pigeonly to Customer or Customer Systems.

"Maintenance Services" means the support and maintenance services provided by Pigeonly to Customer pursuant to this Agreement.

"Services" refers to the specific Software, internet accessible service identified in a schedule that provides use of Pigeonly's Software and Services that is hosted by Customer's Systems or Customer's service providers and made available to Customer over a network on a term-as-use basis.

"Schedule" refers to any schedule and/or exhibit attached to this Agreement.

"Software" means the object code version of any software to which Customer is provided access as part of the Services including any updates or new versions that are owned by Pigeonly.

"User" means any person who utilizes Pigeonly's Services through their mobile application or Internet based platform.

In Consideration of the mutual promises and obligations set forth below, the Parties agree as follows:

2.   PIGEONLY'S OBLIGATIONS

2.1.   Pigeonly, hereby grants the Customer, including all Authorized Users of the Customer, a non-exclusive, non-sublicensable, non-assignable, royalty-free, worldwide license to access and use the service (the "Services") solely for the internal business operations of the Customer in accordance with the terms of this Agreement and Pigeonly's online terms of use. Pigeonly will provide Customer with access to the Services and Software, through the Internet, solely for Customer's internal use.

2.2.   Pigeonly hereby agrees to perform the following mail handling Services:

a.   Receiving and opening mail directed to inmates housed in the Customer's facility sent by Pigeonly Users either by regular mail sent to Pigeonly's designated Post Office Box: **"P.O. Box (TBD), 1001 E. Sunset Rd., Las Vegas, NV 89119"** or electronically through use of Pigeonly's online application and services;

b.   Digitally scanning United States Postal Service ("USPS") mail

c.   Sending a tangible copy of any mail (USPS or Pigeonly mail) received to Customer's facility;

d.   Sending a tangible copy of any mail received to Customer's Facilitiy;

e.   Storing original copies of mail for forty-five (45) days and thereafter disposing/shredding the original copies of the mail;

f.   Notifying the Customer of any Contraband found upon opening any USPS mail prior to digitally scanning the mail; and

g.   Such other Services as the Parties may mutually agree upon from time to time.

2.3.   Pigeonly will undertake commercially reasonable efforts to make the Services available to Customer-on-Customer Systems at all times, excluding the following:

a.   For scheduled or emergency maintenance, including but not limited to, service downtime or degradation caused by a Force Majeure Event or any other circumstances beyond Pigeonly's reasonable control, including Customer's or any Authorized User's use of Third-Party Materials, misuse of the Software Services.

b.   Pigeonly may, directly or indirectly, suspend, terminate or otherwise deny Customer, any Authorized User's or any other third party's access to or use of all or any part of the Services, without incurring any resulting obligation or liability, if:

i. Pigeonly receives a judicial or other governmental demand or order, subpoena or law enforcement request that expressly or by reasonable implication requires Pigeonly to do so;

or

    ii. Pigeonly believes, in its good faith and reasonable discretion, that: (i) Customer or any Authorized User has failed to comply with, any term of this Agreement, or accessed or used the Services beyond the scope of the rights granted or for a purpose not authorized under this Agreement; (ii) Customer or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading or unlawful activities relating to or in connection with any of the Services; or (iii) this Agreement expires or is lawfully terminated pursuant to its terms. This Section (2.3.ii.2) does not limit any of either Party's other rights or remedies, whether at law, in equity or under this Agreement.

    iii.   While Customer is in breach of this Agreement, including without limitation, failure to pay any amounts due to Pigeonly.

2.4.   Pigeonly will use reasonable efforts to give Customer prior written notice of any suspension or scheduled maintenance.

3.   CUSTOMER'S OBLIGATIONS

3.1.   Access and utilization to all the features and/or functionalities of the Services may require Customer to download and/or install certain Pigeonly application software (collectively, the "[Facility Dashboard]").

3.2.   Customer will be directly responsible hereunder for all actions and/or inactions of its Authorized Users hereunder. The Software underlying the Services will be hosted on a server under control or direction of Pigeonly. The Services are subject to modification from time to time at Pigeonly's sole discretion, for any purpose deemed appropriate by Pigeonly, provided that Pigeonly will not materially reduce the aggregate features and functionalities of the Services.

3.3.   Customer will reasonably cooperate with Pigeonly to facilitate provision of the Services. This cooperation will include, without limitation, (i) performing any tasks reasonably necessary for Pigeonly to fulfill Services to its Users and to avoid unnecessary delays; (ii) fulfilling any Customer obligations described herein in a timely manner; and (iii) responding to Pigeonly's reasonable requests related to the Services in a timely manner. Pigeonly will not be liable for any delays in performing the Services that arise, in whole or in part, from Customer's acts or omissions, including, without limitation, its failure to comply with this Section 3.3.

3.4.   If Customer becomes aware of any actual or threatened activity, Customer shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within respective control of Customer and its Authorized Users that are necessary to stop the activity or threatened activity and to mitigate the effects of such activity (including, where applicable, by discontinuing and preventing any unauthorized access to the Services).

4.   AUTHORIZATIONS AND RESTRICTIONS

4.1.   Subject to and conditioned on Customer's payment of the Fees and compliance and performance in accordance with all other terms and conditions of this Agreement, Pigeonly hereby authorizes Customer, to access and use, solely in the Territory during the Term, the Services and such Pigeonly Materials as Pigeonly may supply or make available to Customer for the permitted uses by and through Authorized Users in accordance with the conditions and limitation set forth in this Agreement. In addition, Customer is authorized to:

    a. generate, print, upload, download, store and distribute all data and other content as may result from any access to or use of the Services; and

    b. access and use the Services for production and applications as may be necessary or useful for the effective use of the Services for the permitted uses hereunder.

4.2.   Customer will not and will not knowingly permit any other person to access or use the Services or Pigeonly Materials except as expressly permitted by this Agreement and, in the case of Third-Party Materials, the applicable third-party license agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as this Agreement expressly permits:

a. rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make the Services or Pigeonly's Materials available to any third party that is not an Authorized User;

b. copy, modify or create derivative works or improvements of the Services or Pigeonly's Materials.

c. reverse engineer, disassemble, decompile, decode, adapt or otherwise attempt to derive or gain access to the source code of the Services or Pigeonly's Materials, in whole or in part;

d. bypass or breach any security device or protection used by the Services or Pigeonly Materials or access or use the Services or Pigeonly Materials other than by an Authorized User through the use of his or her own then valid access credentials (including without limitation, password guessing programs, decoders, password gatherers, keystroke loggers, cracking tools, packet sniffers, and/or encryption circumvention programs);

e. use or authorize the use of the Services or Data in any manner or for any purpose that is unlawful under applicable Law;

f. remove, delete, alter or obscure any trademarks, data, warranties or disclaimers, or any copyright, trademark, patent or other intellectual property or proprietary rights notices from any Services or Pigeonly Materials, including any copy thereof;

g. access or use the Services or Pigeonly Materials in any manner or for any purpose that infringes, misappropriates or otherwise violates any intellectual property law or other right of any third party, or that violates any applicable Law;

h. access or use the Services or Pigeonly's Materials for purposes of competitive analysis of the Services or Pigeonly's Materials, the development, provision or use of a competing software service or product or any other purpose that is to Pigeonly's detriment or commercial disadvantage; or

i. otherwise access or use the Services or Pigeonly's Materials beyond the scope of the authorization provided in this Agreement.

5.   TERM AND TERMINATION

5.1.   This Agreement will begin on the XXXXXXX, 202X [Effective Date] and will remain in full force and effect until the June 30th, 2023, unless terminated by either Party for cause, as described in Section 5.3, in which case this Agreement will also be terminated. Except in the case of termination for breach by Pigeonly, within thirty (30) days of the date of termination, Customer must pay all amounts remaining unpaid for Services provided prior to the effective date of termination, plus related taxes and expenses.

5.2.   Renewal Option. Upon expiration of the Initial Term, this Agreement shall automatically renew for successive one (1) year periods, unless a Party provides the other Party with written notice of its intent not to renew this Agreement at least ninety (90) days prior to the expiration of the then current Agreement.

5.3.   Termination of Agreement. A Party may terminate this Agreement if:

a. the other Party is in default of a material obligation under this Agreement, and such default has not been cured within thirty (30) calendar days after receipt of written notice (specifying the default) from the non-defaulting Party. If the default specified in such notice is

cured within the thirty (30) day period, the Agreement will remain in effect;

    b. the non-terminating Party enters into liquidation (apart from a solvent liquidation for the purposes of amalgamation or reconstruction) or is dissolved or declared bankrupt or has a receiver, administrator or administrative receiver appointed over all or part of its assets or enters into an arrangement with its creditors or takes or suffers any similar action; or

    c. either Party may terminate this Agreement at any time by providing one hundred twenty (120) days written notice to the other Party.

5.4.   The terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the performance thereof by either Party hereunder will so survive the completion of the performance, cancellation or termination of this Agreement, including without limitation, Confidentiality, Infringement and Limited Warranties.

6.   PAYMENT TERM

6.1.   Pricing, in consideration of Pigeonly's fulfillment of its obligations under this Agreement, Customer shall pay Pigeonly:

    a. Pricing will be at $4.00 per month per Average Daily Population "ADP".

    b. The total number of inmates for billing purposes is calculated based on UCSO's ADP. As of 11/09/2022, the average daily population ("ADP") is 120 and will be billed at $480.00 per month. (Example: Start date January 1st, 2023 with initial contract end date of June 30th, 2023 would be billed at $2,880.00 which would be due at start date.

    c. Pricing will be adjusted each year 30 days prior to contract expiration to determine the Average Daily population for the next contract year.

    d. The total contract amount will be calculated and will be due prior to the actual go-live date of services "which will be determined by the County".

6.2.   <u>Fee Timeline</u>. If payment is not received within the forty-five (45) days of the invoice date as agree upon, Pigeonly shall be entitled to claim interest on the overdue amount at eight (8) percent, per annum, compounded monthly, calculated from the initial due date through the date of actual payment. This late penalty may not be waived by Customer.

7.   OWNERSHIP AND RESTRICTIONS

7.1.   Reservation of Rights. Nothing in this Agreement grants any right, title or interest in or to (including any license under) any Intellectual Property Rights in or relating to, the Services, Pigeonly, whether expressly, by implication, estoppel or otherwise. All rights, title and interest in and to the Services, and Pigeonly are and will remain with Pigeonly and the respective rights holders in any such materials.

8.   CONFIDENTIALITY

8.1.   <u>Confidential Information</u>. From time to time during the Term of this Agreement, either Party (as the "Disclosing Party") may disclose or make available to the other Party (as the "Receiving Party") non-public, proprietary, confidential information about its business affairs, products, services, confidential intellectual property, trade secrets, third party confidential information, source code and other sensitive or proprietary information in oral, written, electronic or other intangible form marked or indicated as "Confidential" or "Proprietary" at the time of disclosure (collectively, "Confidential Information"). Confidential Information, however, shall not include:

    a. Information which is already generally available to the public;

    b. Information which hereafter becomes generally available to the public, except as a result of the direct or indirect action of the Receiving Party in breach of this Agreement;

c. Information known to the Receiving Party or its Representatives on a non-confidential basis prior to receipt by the disclosing party;

d. Information that is independently developed without access to the Disclosing Party's Confidential Information; and

e. Information disclosed under legal compulsion; provided, however, that prior to a disclosure pursuant to an order or applicable law, the Receiving Party, to the extent permitted by law, promptly provides the other Party written notice of such proposed disclosure in accordance with applicable laws and reasonably cooperates with the other party in its attempts to limit or prevent such disclosure. The Receiving Party shall use the Confidential Information solely for the performance of this Agreement and shall not disclose or permit access to Confidential Information other than to its Affiliates and its or their employees, officers, directors, attorneys, accountants and financial advisors (including insurers) (collectively, "Representatives") who:

i. need to know such Confidential Information for the performance of this Agreement;

ii. know of the existence and terms of this Agreement and

iii. are bound by confidentiality obligations no less protective of the Confidential Information than the terms contained herein. These non-disclosure obligations shall survive the termination of this Agreement.

f. Information need not be marked "Confidential" to be considered Confidential Information. "Confidential Information" includes any Confidential Information disclosed prior to the effective date of this Agreement. Customer Confidential Information shall also be deemed to include Customer Data regardless of marking or indication and shall not be subject to the exceptions referenced above. Any subcontractor retained shall adhere to this Section 9 as it regards to Confidential Information that comes into its possession.

8.2.   Safeguarding Confidential Information. The Receiving Party shall safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its most sensitive information and no less than a reasonable degree of care. The Receiving Party shall promptly notify Disclosing Party of any unauthorized use or disclosure of Confidential Information and take all reasonable steps to cooperate with Disclosing Party to prevent further use or disclosure. The Receiving Party will be responsible for any breach of this Agreement caused by its Representatives. Customer is subject to freedom of information and open records acts and to open meetings acts and other applicable laws.

8.3.   No Rights in Confidential Information. Customer and Pigeonly hereby acknowledge and agree that all Confidential Information of the other Party shall remain the sole and exclusive property of such other party and that the receiving party shall have no proprietary rights, title or interests therein except as otherwise provided in this Agreement.

8.4.   Termination. Upon termination for any reason, or at any other time that Customer or Pigeonly demands, the other Party shall promptly deliver and/or certify destruction of Confidential Information, as appropriate, to the requesting Party all Confidential Information (copies and originals) of the requesting Party as may be in the other party's possession or under its control.

8.5.   Data Privacy and Security

a. Undertaking by Pigeonly. Without limiting Pigeonly's obligation of confidentiality as further described herein, Pigeonly will use commercially reasonable efforts to establish and maintain a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to:

i. ensure the security and confidentiality of the Data;

ii. protect against any anticipated threats or hazards to the security or integrity of the

Data;

       iii. protect against unauthorized disclosure, access to, or use of the Data;

       iv. ensure the proper disposal of Data; and

       v.ensure that all employees, agents, and subcontractors of Pigeonly, if any, comply with all of the foregoing.

    b. Unauthorized Access. Pigeonly will use commercially reasonable efforts to prohibit access to Customer Systems, in whole or in part, whether through Pigeonly's Systems or otherwise.

    c. Pigeonly Systems. Pigeonly will be responsible for the security, management and maintenance of information technology infrastructure, including all computers, software, databases, electronic systems (including database management systems) and networks used by or for Pigeonly to access the Customer Systems or otherwise in connection with the Services ("Pigeonly Systems").

9.   INDEMNIFICATION

9.1.   Each of the Parties agree to indemnify and hold harmless the other Party and its affiliates and its directors, officers and employees from and against all taxes, losses, damages, liabilities, costs and expenses, including attorneys' fees and other legal expenses, arising directly or indirectly from or in connection with:

    a. any negligent, reckless or intentionally wrongful act by a Party, its assistants, employees, contractors or agents,

    b. any breach by a Party, its' assistants, employees, contractors or agents of any of the covenants contained in this Agreement;

    c. any failure of Party to perform the Services in accordance with all applicable laws, rules and regulations;

    d. any violation or claimed violation of a third party's rights resulting in whole or in part from a Party's use of the Inventions or other deliverables under this Agreement:

       i. that that the Services infringe any Intellectual Property Rights of a third party enforceable in the U.S. ("Infringement Claim"); or

       ii.any claim for bodily injury or death of any individual, or the loss, damage or destruction of any real or personal property, resulting from the willful, negligent, reckless, fraudulent or intentional acts or omissions by a Party.

9.2   Indemnification Procedures. The Party seeking indemnification (the "Indemnified Party") will promptly notify the other Party ("Indemnifying Party") in writing of any Claims for which it seeks indemnification pursuant to this Section 10 and reasonably cooperate with the Indemnifying Party at the Indemnifying Party's sole cost and expense. The Indemnifying Party will immediately take control of the defense and investigation of such Claim and will employ counsel reasonably acceptable to the other party to handle and defend the same, at the Indemnifying Party's sole cost and expense. The Indemnifying Party will not settle any Claim on any terms or in any manner that adversely affects the rights of the other Party or any Indemnitee without the other Party's prior written consent, which will not be unreasonably withheld or delayed. The other Party and any Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing. A Party's failure to perform any obligations under this Section 10 will not relieve the Indemnifying Party of its obligations herein except to the extent that the Indemnifying Party can demonstrate that it has been prejudiced as a result of such failure.

10. LIMITATIONS OF LIABILITY

10.1. EXCLUSION OF INDIRECT DAMAGES. TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR THE FOLLOWING TYPES OF LOSS: LOSS OF PROFITS OR REVENUE; LOSS OF BUSINESS OR GOODWILL, OR BUSINESS INTERRUPTION, OR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT, A SERVICE ORDER/STATEMENT OF WORK OR THE PERFORMANCE OR BREACH THEREOF, WHETHER BASED IN CONTRACT, TORT OR ANY OTHER THEORY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBLITIES OF SUCH CLAIM.

11. SERVICE LEVEL AGREEMENT
Attachment "A"

12. IMPLEMENTATION PLAN
Attachment "B"

13. REPRESENTATIONS AND LIMITED WARRANTIES.

13.1. <u>Mutual Representations and Warranties</u>. Each Party represents and warrants to the other Party that:

a. it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization or chartering.

b. it has, and throughout the Term and any Renewal Terms during which it does or is required to perform the Services will retain, the full right, power and authority to enter into this Agreement and perform its obligations hereunder.

c. the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate/ action of the Party; and

d. when executed and delivered by such Party, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such party in accordance with the Agreement terms, except as the enforceability thereof may be limited by bankruptcy and similar Laws affecting creditors' rights generally and by general equitable principles.

13.2 Additional Customer Warranty. Customer represents, warrants, and covenants to Pigeonly that:

a. Customer owns or otherwise has and will have the necessary rights and consents in and relating to the Customer Data so that, as received by Pigeonly and Processed in accordance with this Agreement, Customer does not and will not infringe, misappropriate, or otherwise violate any Intellectual Property Rights, or any privacy or other rights of any third party or violate any applicable Law.

13.3. DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTION 14, ALL SERVICES AND PIGEONLY MATERIALS ARE PROVIDED "AS IS" AND PIGEONLY HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, AND PROVIDER SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD-PARTY MATERIALS IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF THE THIRD-PARTY MATERIALS.

14. GENERAL PROVISIONS

14.1. Further Assurances. Each Party will, upon the reasonable request, and at the sole cost and expense, of the other party, promptly execute such documents and perform such acts as may be necessary to give full effect to the terms of this Agreement.

14.2. Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement will be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party will have authority to contract for or bind the other party in any manner whatsoever.

14.3. Notices. Any notice or other communication required or permitted by this Agreement to be given to a Party shall be in writing and shall be deemed effectively given (i) if delivered personally or by commercial messenger or courier service, (ii) when sent by confirmed facsimile, or (iii) if mailed by U.S. registered or certified mail (return receipt requested), to the Party at the Party's address written below or at such other address as the Party may have previously specified by like notice.

CUSTOMER	PIDGEONLY, INC.
[insert agency name] Attn: [insert agency contact name] [insert agency address] [insert agency city, state zip code] [insert contact phone number] [insert contract email address]	Pidgeonly, Inc. Attn: Frederick Hutson 2252 East Pama Lane Las Vegas, NV 89119 Frederick@pigeonlycorrections.com

14.4. Headings. The headings in this Agreement are for reference only and will not affect the interpretation of this Agreement.

14.5. Entire Agreement. This Agreement, including all other Schedules and Exhibits and any other documents, agreements or instruments incorporated by reference herein, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, and all subsequent oral understandings and agreements with respect to such subject matter. In the event of any conflict between the terms of this Agreement and those of any Schedule, Exhibit or other document, the following order of precedence will govern: (a) first, this Agreement, excluding its Exhibits and Schedules; (b) second, the Exhibits and Schedules to this Agreement as of the Effective Date; and (c) third, any other documents, instruments or agreements incorporated herein by reference. This Agreement and all Service Orders take precedence over any purchase order issued by Customer, which may be accepted by Service Provider for administrative convenience only.

14.6. Assignment. Neither Party will assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement without the other Party's prior written consent, which consent will not unreasonably be withheld or delayed. Any purported assignment, delegation or transfer in violation of this Section 15 is void. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective permitted successors and assigns.

14.7. No Third-party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective permitted successors and permitted assigns and nothing herein, express or implied, is intended to or will confer on any other person or entity any legal or equitable right,

benefit or remedy of any nature whatsoever under or by reason of this Agreement.

14.8. <u>Amendment and Modification; Waiver</u>. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each Party hereto. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

14.9. <u>Severability</u>. If any term or provision of this Agreement is invalid, illegal or unenforceable according to Law, such invalidity, illegality or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto will negotiate in good faith to modify this Agreement so as to affect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

14.10. <u>Governing Law</u>.

a. This Agreement and all related documents, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the laws of the State of Delaware;

b. Any legal suit, action or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of Delaware, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party's address set forth herein will be effective service of process for any suit, action or other proceeding brought in any such court.

14.11. <u>Waiver of Jury Trial</u>. Each Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement or the transactions contemplated hereby.

14.12. <u>Equitable Relief</u>. The Parties will be entitled to seek injunctive or other equitable relief whenever the facts or circumstances would permit a Party to seek equitable relief in a court of competent jurisdiction.

14.13. <u>Attorneys' Fees</u>. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either Party hereto against the other Party arising out of or related to this Agreement, the prevailing party will be entitled to recover its reasonable attorneys' fees, expert witness fees and out-of-pocket and court costs from the non-prevailing Party.

IN WITNESS WHEREOF, the Parties hereto have executed this Consulting Agreement as of the date first written above.

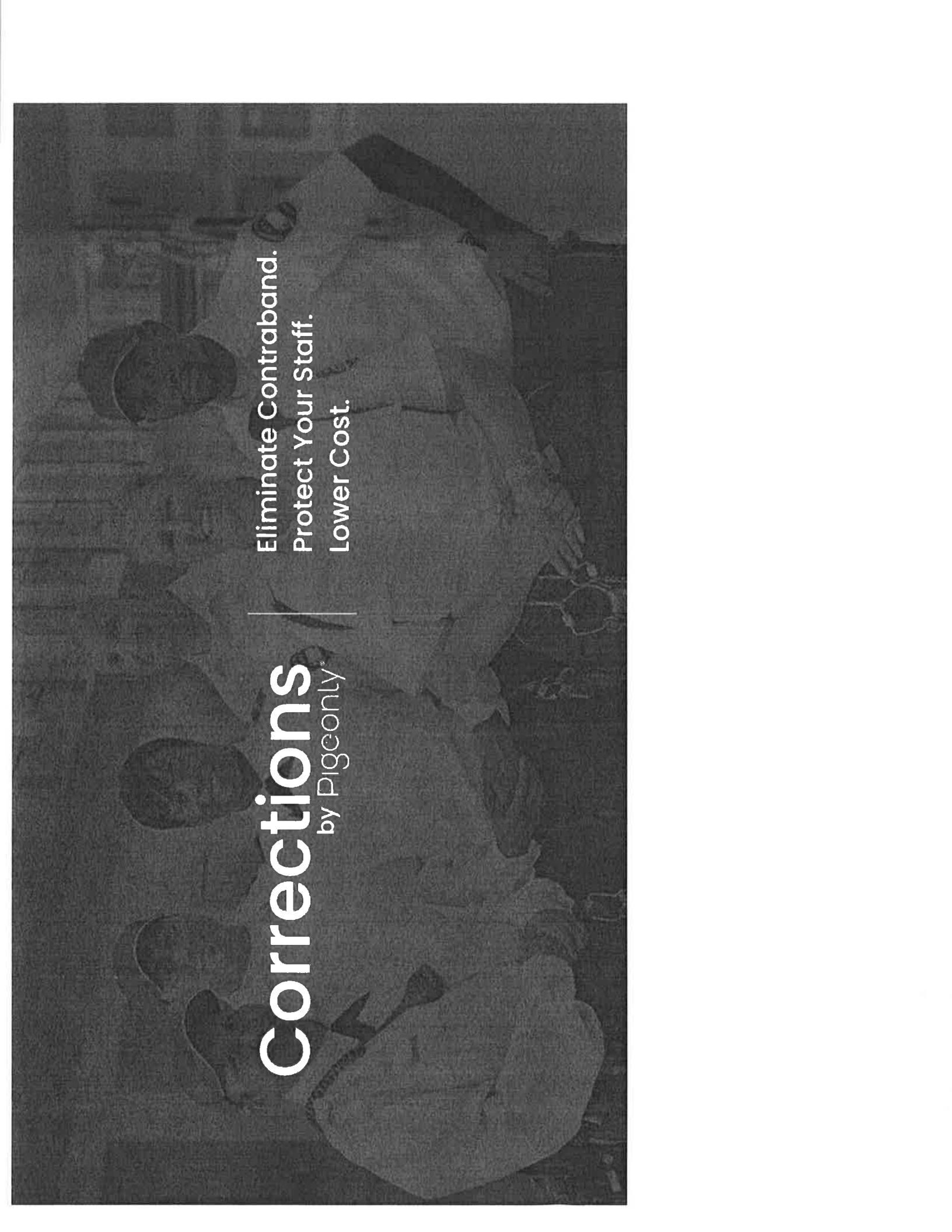**CUSTOMER:**   **PIGEONLY, INC.:**

_____   _____
Signature   Signature
                                                Keith Bowdle, Vice President of Gov
                                                Sales
_____   _____
Name and Title   Name and Title

Corrections
by Pigeonly®

Eliminate Contraband.
Protect Your Staff.
Lower Cost.

Pigeonly – Company History

Since 2013 Pigeonly has provided a simple, affordable way for Family and Friends to stay in touch with their loved ones who are currently incarcerated.

To date, Pigeonly has signed up over One Million Customers on our Consumer Platform. To date, we have shipped thousands of parcels to DOC's, and Correctional Facilities across the US.

Family and Friends can use any Mobile Device, Tablet or Desktop Computer for unlimited Mail, Photos, Greeting Cards & more with our low cost online services.

Pigeonly Corrections – Government Sales

In 2019-2020 Pigeonly Created a Contraband Elimination Solution based on the growing trend of Contraband coming into Correctional Facilities Via the US Postal Service Mail.

At Pigeonly Corrections we provide a mail screening solution that allows your facilities to receive legal and non-legal postal mail without the risk of contraband, protecting the safety of Correctional employees and those incarcerated while ensuring inmates' constitutional right to postal mail.

Pigeonly Provides

TWO FLEXIBLE MAILING OPTIONS

OPTION 1

PHYSICAL MAIL
(TRADITIONAL POSTAL USPS MAIL)

Physical Mail (Traditional Postal USPS Mail) is sent to a dedicated P.O. box set up on behalf of the facility.

Visually inspected, scanned, copied, printed, and shipped to facilities

Able to track delivery status and whether mail was accepted or rejected after creating a Pigeonly account

USPS mailing prices indicate what a friend or family member sends

OPTION 2

PIGEONLY MAIL
(ONLINE WEB SERVICE)

Pigeonly Mail is an online service to create or upload letters, photos, postcards, greeting cards, and articles.

Printed and shipped to facilities

Able to track delivery status and whether mail was accepted or rejected with included Pigeonly account

Offers free and paid plans available with no contract required