

**CONTRACT**  
**BY AND BETWEEN**  
**THE COUNTY OF CUYAHOGA**  
**AND**  
**WATCH SYSTEMS, LLC**

This Contract (the "Contract") made and entered into this 4<sup>TH</sup> day of February 2013 (the "Effective Date"), by and between the County of Cuyahoga, Ohio (the "County"), on behalf of the Cuyahoga County Sheriff's Office (the "CCSO") and Watch Systems LLC, a Louisiana limited liability company with its principal offices located at 516 East Rutland Street, Covington, Louisiana 70433 (the "Provider").

**WHEREAS**, the Cuyahoga County Sheriff's Office desires to engage the services of Provider, for purposes of providing notification and verification services related to mailing sex offender notifications throughout the County; and

**WHEREAS**, Provider desires to provide said services to the County Sheriff's Office.

**NOW, THEREFORE**, in consideration of the mutual agreement contained herein, the County and Provider hereby agree as follows:

**I. SCOPE OF SERVICES**

Subject to the terms and conditions in this Contract, Provider shall provide notification and verification services ("Services") to the County for the purpose of community notifications about the location of sex offenders in neighborhoods selected by the County, as described in the attached Exhibit A.

**II. TERM OF THE AGREEMENT**

The term of this Contract ("Term") shall commence as of February 4, 2013 through February 3, 2015 unless earlier terminated in accordance with the provisions herein.

**III. CONTRACT TERMINATION**

The County may terminate this Contract without cause upon thirty (30) days' written notice to Provider. Only those Services actually provided through the Effective Date of termination will be paid by the County.

#### **IV. COMPENSATION**

- A. Compensation to Provider shall be in the amount of Seventy-Five Thousand and No/100 Dollars (\$75,000.00) per year for a total amount not-to-exceed One Hundred and Fifty Thousand and No/100 Dollars (\$150,000.000) for the Term of the Contract. Provider hereby acknowledges that it shall assume the risk of performing any Services, the fee for which would exceed the maximum amount stated above.
- B. The fees for Services to be provided are listed in attached Exhibit B.

#### **V. APPROPRIATION OF FUNDS**

- A. Initial Appropriation. Beginning on the Effective Date through February 3, 2014, the County shall appropriate Seventy-five Thousand Dollars \$75,000.00.00 to the Contract (the "Initial Appropriation").
- B. Subsequent Appropriations. Beginning February 3, 2014, the County shall appropriate Seventy-Five Thousand Dollars (\$75,000.00) to the Contract sufficient to fund the Services to be provided by Provider under the Contract for the following calendar year ("Subsequent Appropriation"). This Subsequent Appropriation shall be as determined solely by the County and may be based on the County's consumption of Services under the Contract during the previous 12-month period.
- C. Failure of Appropriation. Any provision of this Contract to the contrary notwithstanding, payment by the County hereunder shall be subject to annual appropriation of sufficient funds by Cuyahoga County Council, as set forth in this Section V. The County may terminate this Contract, on thirty (30) days written notice to Provider, in the event of insufficient appropriation, at no additional charge or cost to the County.

#### **VI. INVOICING**

- A. CCSO will establish a prepaid account with the Provider. Provider shall draw down on this account each time a notification is mailed. Whenever this account reaches a Ten Thousand and No/100 Dollar (\$10,000.00) threshold, Provider will invoice CCSO for an additional Twenty-five Thousand and No/100 Dollars (\$25,000).
- B. All invoices will be reviewed prior to authorization for payment and are subject to audit by County or others and possible revision. Any discrepancies will be withheld until Provider provides a satisfactory written explanation to CCSO.

## **VII. FOREIGN CORPORATION**

Provider has been duly organized and is a validly existing corporation under the laws of the State of Louisiana, is in good standing and qualified to do business in the State of Ohio as a foreign corporation, has the full legal authority to enter into this Contract and perform its obligations hereunder, and has all requisite power, corporate or otherwise, to conduct its business, as presently conducted and will remain so qualified and in good standing during the term of this Contract.

## **VIII. INSURANCE; INDEMNIFICATION**

- A. Provider insurance. Provider shall maintain at all times professional liability insurance with coverage of ONE MILLION DOLLARS (\$1,000,000.00) for any one incident, general commercial liability policy with coverage of ONE MILLION DOLLARS (\$1,000,000.00) for death or injury of any one person and ONE MILLION DOLLARS (\$1,000,000.00) for the death or injury of two or more persons in any one occurrence, together with ONE MILLION DOLLARS (\$1,000,000.00) for property damage in any one occurrence with an aggregate property damage of TWO MILLION DOLLARS (\$2,000,000.00) two or more occurrences. Said insurance to be placed with an insurance company authorized to do business in the State of Ohio. Provider shall name COUNTY as an additional insured on all insurance and shall provide a certificate of such insurance upon request by County.
- B. Worker's Compensation. Provider shall secure Worker's Compensation for all of Provider's employees as required by law. A Certificate of Compliance from the State of Ohio's Bureau of Workers' Compensation shall be provided to County upon request.
- C. Provider Indemnification. Provider agrees to protect, defend, indemnify, and hold the County and its officials, officers, employees, agents, representatives, departments, agencies, boards, commissions, and other authorities free, clear, and harmless from and against any and all losses, penalties, damages, settlements, costs and liabilities of every kind and character arising out of, or in connection with, any acts or omissions, negligent or otherwise, of Provider and/or its employees, officers, agents, subcontractors or independent contractors. Provider agrees to pay all damages, costs, and expenses of the County, its officers, agents, employees and the County itself in defending any action arising out of the aforementioned acts or omissions.
- D. No Indemnity by County. Provider acknowledges that as an Ohio political subdivision, County is prohibited by law from agreeing to indemnify any person or entity, and agrees that no Section of this Contract or any other

contract or agreement between Provider and the County may be interpreted to obligate the County to indemnify or defend Provider or/any other party.

## **IX. CONFIDENTIALITY**

Provider shall take all steps necessary to protect the County's trade secrets. Provider shall also treat as proprietary and confidential any and all information belonging to the County, which is disclosed to Provider in the course of performance of Services under this Contract (the "Confidential Information"). Provider shall only use Confidential Information for the purposes of this Contract. Provider agrees not to disclose or reveal to any outside party or use for its own benefit, either directly or indirectly, any Confidential Information which it may acquire or develop or, has acquired or developed concerning the technical or business affairs or other private or confidential matters, information, or data of County without prior written permission of the County. The County will abide by law in granting or denying any permission for disclosure. If Provider fails to meet its obligations to protect the Confidential Information, the County may seek equitable relief.

Confidential Information shall not include information that is in the public domain. This entire clause shall survive the completion of the performance of the Services hereunder and the termination of this Contract.

## **X. PUBLIC RECORDS**

Provider acknowledges and agrees that as a political subdivision, the County is subject to the requirements of the Ohio Public Records Law. This Contract is a matter of public record under the laws of the State of Ohio. Provider agrees to make copies of this Contract promptly available to any requesting party. Upon request made pursuant to Ohio law, the County shall make available the Contract and all public records generated as a result of this Contract. By entering into this Contract, Provider acknowledges and understands that records maintained by Provider pursuant to this Contract may be deemed to be public records and subject to disclosure under Ohio law. Provider shall comply with the Ohio Public Records Law. This Section shall survive the completion of the performance of the Services hereunder and the termination of this Contract.

## **XI. MISCELLANEOUS**

- A. **County Agent and Liaison.** For the purpose of this Contract, the agent for the County and liaison officer on the matter contained herein shall be the Director or Manager of CCSO and/or such members of her/his staff as designated; and

B. **Reports.** All reports and any other records developed by Provider in the performance of this Contract shall remain the sole property of the County. Provider shall not copy or use such records except to develop contracted work associated with this Contract. In addition, Provider shall not transfer any such records to any other party not involved with this Contract. All of the above shall be delivered to the County upon completion of this Contract.

C. **Agreement to Remain in Compliance with Certifications, Representations, and Warranties as Continuing Commitments or Verification.** Provider shall ensure that all of its certifications, representations, and warranties under this Contract shall remain true throughout the duration of the Contract as if they are continuing commitments, and it shall immediately notify the County in writing in the event that any of the certifications, representations, and warranties ceases to be true. At its sole discretion, County has the unequivocal right to review and audit Provider's continuing certifications, representations, and warranties.

During the performance of this Contract, Provider agrees to itself, its owners, members, shareholders, officers, representatives, agents, employees, subcontractors assignees, and successors in interest to comply with all applicable laws, resolutions, regulations and/or policies of the County, relative to equal employment, affirmation action and Small/Women/Minority Business Enterprise requirements, which are herein incorporated by reference and made a part of this Contract. Failure to comply with any of the aforementioned laws, resolutions, regulations and/or policies may result in the termination of this Contract.

Provider warrants and represents that it has not employed or retained any company, firm or person, other than a bona fide employee working for the Provider, to solicit or secure this Contract, and that it has not paid or agreed to pay any company, firm or person, other than a bona fide employee working for Provider, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, County shall have the right to annul this Contract without liability or in its discretion to deduct from the contract fee or consideration, or otherwise recover, the full amount of such fee, commission, gift, percentage, or contingent fee.

D. **Independent Contractor.** Provider, its employees, agents and subcontractors shall perform all Services pursuant to this Contract as independent contractors and not as employees of the County or the CCSO.

E. **Prohibition on Assignment.** Provider may not assign, directly or indirectly, all or part of its rights or obligations under this Contract without the prior written consent of the County.

- F. **Findings for Recovery.** Provider represents and warrants that it is not subject to an “unresolved” finding for recovery under the Ohio Revised Code Section 9.24. If this representation and warranty is deemed to be false, this Contract is void ab initio, and Provider must immediately repay to the County any funds paid under this Contract and must make the County whole for any damages sustained by the County.
- G. **Severability.** If, and only to the extent that, any provision of this Contract is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations arising under such provision, it being the intent and agreement of the parties that this Contract shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent. If that is not possible, another provision that is legal and enforceable and achieves the same objective shall be substituted. If the remainder of this Contract is not affected by such declaration or finding and is capable of substantial performance, then the remainder shall be enforced to the extent permitted by law.
- H. **Waiver.** No delay or omission by either party in the exercise of any right or power shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties of any of the covenants, conditions or agreements to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained. No change, waiver, or discharge hereof shall be valid unless in writing and signed by an authorized representative of the party against which such change, waiver, or discharge is sought to be enforced.
- I. **Survival of Terms.** Termination or expiration of this Contract for any reason shall not release either party from any liabilities or obligations set forth in this Contract, which (i) the parties have expressly agreed shall survive any such termination or expiration, or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.
- J. **Headings and Interpretation.** The article and section headings used herein are for reference and convenience only, and they shall not have any effect upon the interpretation or meaning of any provision hereof.
- K. **Governing Law and Jurisdiction; Applicable County Ordinances**  
This Contract shall be governed by and construed under the laws of the State of Ohio without regard to conflicts of law provisions. The parties agree that the Federal and State courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this Contract, and each party consents to the exclusive jurisdiction of such courts. Provider hereby agrees not to challenge this Governing Law and Jurisdiction provision, and not to attempt to remove any legal action outside of the County for any reason. The Contract is subject to the

review of the County Law Department as to legal form and correctness. All contracts in which Cuyahoga County is a party, including this Contract, are subject to all applicable Cuyahoga County Ordinances, including, but not limited to, the Cuyahoga County Ethics Ordinance, the Cuyahoga County Inspector General Ordinance, and the Cuyahoga County Contracting and Purchasing Procedures Ordinance. During the term of this Contract, including any extensions, all parties shall remain in compliance with all applicable Cuyahoga County Ordinances and may access copies of all County ordinances on the Cuyahoga County Council's website at:  
<http://council.cuyahogacounty.us/>.

- L. **Compliance with Law.** Provider shall comply with all Federal, State, and Local laws, ordinances, resolutions and policies applicable to the work to be done under this Contract. Provider shall be and remain an independent contractor with respect to all Services performed hereunder and agrees to and does hereby accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, workmen's compensation, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any Federal, State, and/or Local law which are measured by the wages, salaries, or other remuneration paid to persons employed by the Provider for work performed under the terms of this Contract and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by and duly authorized State or Federal officials; and said Provider also agrees to indemnify and save harmless the County from such contributions or taxes or liability.

## **XII. ANTI-DISCRMINIATION**

The County and Provider agree that in the performance of this Contract, they shall not engage in any discriminatory practices prohibited by state or federal law.

## **XIII. NOTICES**

Any reports, notices, invoices, or communications required in this Contract shall be sufficient if sent by the parties in the United States mail, postage paid, to the addressee noted below:

**County:**  
Cuyahoga County Sheriff's Office  
1215 West 3<sup>rd</sup> Street  
Cleveland, Ohio 44113  
Attn: Donna Kaleal 2<sup>nd</sup> Floor,  
Fiscal

**Provider:**  
Watch Systems LLC  
516 East Rutland Street  
Covington , Louisiana 70433  
Attn: Mike Cormaci

#### XIV. ENTIRE AGREEMENT


This Contract, including any Exhibit and documents referred to in this Contract or attached hereto, each of which is incorporated herein, constitutes the entire and exclusive statement of the agreement between the parties with respect to its subject matter and there are no oral or written representations, understandings or agreements relating to this Contract which are not fully expressed herein. The parties agree that any other terms or conditions included in any quotes, acknowledgments, bills of lading or other forms utilized or exchanged by the parties shall not be incorporated herein or be binding unless expressly agreed upon in writing by authorized representatives of the parties. No modification, change or amendment hereof shall be valid unless such is in writing and signed by the authorized representative of the party against which such modification, change or amendment is sought to be enforced.

#### XV. ELECTRONIC SIGNATURE

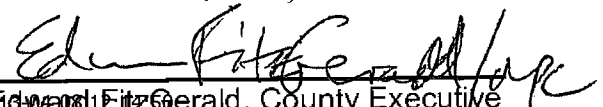
BY ENTERING INTO THIS CONTRACT PROVIDER AGREES ON BEHALF OF THE CONTRACTING ENTITY, ITS OWNERS, MEMBERS, SHAREHOLDERS, OFFICERS, REPRESENTATIVES, AGENTS, EMPLOYEES, SUBCONTRACTORS AND/OR ASSIGNS, TO CONDUCT THIS TRANSACTION BY ELECTRONIC MEANS BY AGREEING THAT ALL DOCUMENTS REQUIRING COUNTY SIGNATURES MAY BE EXECUTED BY ELECTRONIC MEANS, AND THAT THE ELECTRONIC SIGNATURES AFFIXED BY COUNTY TO SAID DOCUMENTS SHALL HAVE THE SAME LEGAL EFFECT AS IF THAT SIGNATURE WAS MANUALLY AFFIXED TO A PAPER VERSION OF THE DOCUMENT. PROVIDER ALSO AGREES ON BEHALF OF THE AFOREMENTIONED ENTITY AND PERSONS, TO BE BOUND BY THE PROVISIONS OF CHAPTERS 304 AND 1306 OF THE OHIO REVISED CODE AS THEY PERTAIN TO ELECTRONIC TRANSACTIONS, AND TO COMPLY WITH THE ELECTRONIC TRANSACTIONS AND THE ELECTRONIC SIGNATURE POLICY OF CUYAHOGA COUNTY.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed on this day and \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**WATCH SYSTEMS, LLC:**

By:   
Printed Name: Jonathan Roberts  
Title: Vice President of Operations

**THE COUNTY OF CUYAHOGA, OHIO**

Edward FitzGerald, County Executive  
By:   
2013 Edward FitzGerald, County Executive



The legal form and correctness of this Contract is hereby approved:

Law Department

Cuyahoga County, Ohio

Majeed G. Makhlouf, Director of Law

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

Name: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A**

### **Services**

Watch Systems, LLC ("Provider") is a community notification and verification service of sexual offender's residences, which is required by the Adam Walsh Act and the Ohio Revised Code.

#### **Mailing Service Process and Deliverables:**

1. As sexual offender data is entered by CCSO and a mailing estimate requested, Provider determines the number of notification mailings are required for the CCSO-defined notification radius, and displays a mailing estimate and the cost based on how many cards will be prepared.
2. CCSO is presented with an exact facsimile of the actual mailer for prior approval that will be printed and mailed by Provider for CCSO.
3. CCSO will decide whether to send notification mailers for all offenders; only certain of the most dangerous predators; according to its local statutes; or any other plan it implements, at whatever radius elected.
4. Provider will prepare the notification cards which will carry the CCSO logo, a personalized message and public service information from Sheriff \_\_\_\_\_, and full offender demographics including address data, the registerable offense, vehicles, etc. and a photograph.
5. Provider can select a wider notification radius (1 mile for example) for rural offenders and a smaller radius (.3 miles or X amount of feet) for urban offenders- the mailing radius is entirely user selectable. Provider will set up an automatic radius of 1,250 feet.
6. CCSO will send an email with the mailing authorization form to Provider, which then prints and mails the offender notification mailers. A copy of the notification mailer is sent to CCSO via email for record keeping, and a facsimile of each mailer is retained in the Provider's records for review.
7. For each mailing a sample card will be sent to a designated customer representative at the CCSO for review and approval prior to mailing.
8. All mailings are deemed complete when delivered by Provider to a United States Postal Service post office within two (2) business days but not later than five (5) business days of receipt of the mailing authorization from CCSO.
9. CCSO has access to an archive database maintained by Provider with all mailing data, including the offenders' details, the addresses of recipients who received a notification and the distance of each from the offender, etc. This data is maintained by Provider for two (2) years from completion of mailing.

**EXHIBIT B**  
**FEE SCHEDULE**

Cost per card is \$ .46 (or current postal rate) subject to a \$35 minimum fee for each mailing per sexual offender.