

SERVICE AGREEMENT

ORDER FORM (Order Number: ORD-202302240012)

Customer		
Licensee	City of Chula Vista	
Contact	Maria V. Kachadoorian	
Address	276 Fourth Avenue Chula Vista, CA 91910	
Email	mkachadoorian@chulavistaca.gov	
Services and Contract Terms		
Platform	Access to the modules identified in the fee schedule below provided through AutoReturn's products and services as described at https://www.autoreturn.com/	
Region(s)	Chula Vista, CA	
Term (years)	Initial 1 Year Term, with 2 one-year renewal options	
Payment Terms	All annual recurring charges (ARC) will be invoiced on the Effective Date and each anniversary of the Effective Date listed below. The annual invoices will be provided during the Term and shall be due and payable as of the invoice date and on the first day of each subsequent anniversary date. All invoices are due Net 60 days after the invoice date.	
Products		
Product ID	Item Description	Price
AR-07.1	Dispatch, Impound and PPI Management ("Enterprise +") Subscription Fee (monthly) - This service provides the AR-04 and AR-02 services plus access to the Private Property Impound (PPI) Portal that supports the reporting of private property impounds and repossessions to enable the tracking and managing of vehicles towed from private property. This service requires the purchase of AR-08.1.	\$118,000 ARC
AR-07.1.1	Discount on Product ID AR-07.1	15.25% (18,001)
AR-08.1	Implementation and Training Services: One-Time Fee per Licensee - implementation and training of Licensee staff and tow company staff utilizing online video and a virtual "train-the-trainer" concept.	\$30,000
AR-08.1.1	Discount on Product ID AR-08.1	100% (30,000)
	Total Year 1 Cost	\$99,999
Additional Terms		
Licensee confirms that a Purchase Order (PO) is not required to support this Order Form and the signatory below represents that they are authorized to approve this financial commitment to AutoReturn in the absence of a PO.		
At the end of the initial one-year term, the Licensee has the right to renew the Products listed above for two (2) additional one-year periods at \$118,000 for each renewal period.		
Year 1 Payment Terms: (Net 60 from Effective Date listed below)		
Annual Total Year 1 - \$99,999		
Annual Total Year 2 - \$118,000		
Annual Total Year 3 - \$118,000		

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This agreement is made and entered into as of October 3, 2023 (“Effective Date”), between AutoReturn US, LLC, with an address at 9440 W Sahara Ave Ste 215, Las Vegas, NV 89117 (“**AutoReturn**”) and the customer identified above (“**Licensee**”) (each of AutoReturn and Licensee, a “**Party**” and collectively, the “**Parties**”). This agreement includes and incorporates the Order Form above, the Terms and Conditions attached hereto, and all additional Order Forms mutually signed by the Parties that references the Order Form above (collectively, the “**Agreement**”).

AutoReturn US, LLC

Licensee: City of Chula Vista

By: _____

By: _____

Name: Raymond Krouse

Name: Maria V. Kachadoorian

Title: CFO/Co-Founder

Title: City Manager

Approved As to Form:

By: _____

Name: Jill D.S. Maland, Lounsbury Ferguson Altona & Peak

Title: Acting City Attorney

TERMS AND CONDITIONS

PLEASE READ THESE TERMS AND CONDITIONS BEFORE USING THE SERVICES OFFERED BY AUTORETURN US, LLC ("AUTORETURN"). BY MUTUALLY EXECUTING ONE OR MORE ORDER FORMS WITH AUTORETURN THAT REFERENCE THESE TERMS AND CONDITIONS (EACH, AN "ORDER FORM"), YOU ("LICENSEE") AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS.

1. Proprietary Rights.

(a) **Platform.** Upon mutual execution, each Order Form shall be incorporated into these Terms and Conditions and form a part of the Agreement. For each Order Form, subject to Licensee's compliance with this Agreement (including any applicable limitations and restrictions set forth on the applicable Order Form), AutoReturn hereby grants to Licensee during the Term (defined below) a non-exclusive, non-transferable and non-sublicensable license to allow its employees and contractors who have been issued valid access credentials from AutoReturn ("**Authorized Users**") to access and use the Platform, as described above in Order Form 202302240012, solely for use within the Region set forth in the applicable Order Form. AutoReturn will provide Licensee with the support services set forth at Attachment A: Service Level Agreement.

(b) **Restrictions.** Licensee will not, and will not knowingly permit any third party to: (i) copy, modify, translate, or create derivative works of the Platform; (ii) reverse-engineer, decompile, disassemble or otherwise attempt to reconstruct, identify or discover any source code, underlying ideas, underlying user interface techniques, or algorithms of the Platform (except to the extent such prohibition is contrary to applicable law); (iii) lend, lease, offer for sale, sell or otherwise use the Platform for the benefit of any third party except as permitted under Section 1(a); (iv) take actions in violation of the Agreement with the intent to disrupt the integrity or performance of the Platform; (v) attempt to gain unauthorized access to the Platform or its related systems or networks; or (vi) use the Platform in a manner that violates this Agreement, any third party rights or any applicable laws, rules or regulations.

(c) **AutoReturn Ownership.** Except for the rights granted to Licensee in Section 1(a) above, as between the Parties, AutoReturn owns and retains all right, title and interest, including all intellectual property rights, in and to the Platform (including all updates thereto ;). Without limiting the foregoing, AutoReturn shall own all aggregated and de-identified information that AutoReturn's systems or applications automatically collect with respect to the Platform and/or its use and/or performance (including, without limitation, de-identified Data that does not, and cannot reasonably be used to, identify Licensee or any individual) ("**Diagnostic Data**"), which, notwithstanding anything to the contrary, AutoReturn may freely utilize, provided such use is in accordance with applicable laws. All rights that AutoReturn does not expressly grant to Licensee in this Section 1 are reserved and AutoReturn does not grant any implied licenses under this Section 1. For clarity, notwithstanding anything else, any information or data collected by a third party (excluding Licensee) are subject to the terms between AutoReturn and such third party; however, AutoReturn and such third parties must use such information or data only in accordance with this Agreement for lawful purposes, and AutoReturn further agrees not to sell, lease, or otherwise monetize any information or data submitted through the Platform by third parties or collected by a third party, directly or indirectly, to any external organizations or individuals unless AutoReturn obtains the third parties' prior written consent .

(d) **Licensee Ownership.** As between the Parties, Licensee owns all data, information and other materials submitted to the Platform or AutoReturn by Licensee or its Authorized Users (which, for clarity, excludes Diagnostic Data) (collectively, "**Data**"). Licensee hereby grants to AutoReturn a non-exclusive and non-transferable (except under Section 10) license to use and host the Data, solely for the purpose of performing its obligations and exercising its rights pursuant to this Agreement. AutoReturn will permit Licensee to download all Data from the Platform in .csv format for sixty (60) days following the termination or expiration of this Agreement. Thereafter, AutoReturn shall have no obligation to maintain or permit access to Licensee Data following said period and shall not be liable hereunder for any return, loss, or destruction of Licensee Data thereafter.

(e) **Updates.** From time to time, AutoReturn may (but is under no obligation to) provide updates, upgrades, fixes, improvements, or additional features to the Platform which do not constitute a separate product or service (each an "**Update**"), which may be provided either free of charge at AutoReturn's discretion, or as an additional paid module or feature (subject to an Order Form or separate contract between the Parties). Any duly authorized and implemented Update shall be deemed part of the "Platform" licensed hereunder upon release to Licensee.

(f) **Feedback.** During the Term, Licensee may provide general feedback, comments, suggestions, and other communications regarding potential improvements to the Services (collectively, "**Feedback**"). Licensee grants to

AutoReturn the non-exclusive, perpetual, irrevocable, fully sublicensable, fully transferable, royalty-free right to use, copy, reproduce, publish, perform, display, distribute, create derivative works of, have and have made, sell, and otherwise commercially exploit Feedback in any format or medium for any purpose in its discretion. The foregoing license shall survive the termination or expiration of this Agreement for any reason.

(g) Publicity. Licensee agrees that AutoReturn may, upon advanced written consent provided by Licensee, use and display Licensee's name and/or current trademark brand or logo in its customer lists, advertisements, and other published marketing materials factually describing Licensee as AutoReturn's customer and/or a recipient of Services during the Term. Subject to Licensee providing advanced written consent, Licensee agrees that AutoReturn may create a written case study based on Licensee's use of the Services (and you agree to reasonably cooperate with AutoReturn on this case study). Notwithstanding anything else, you acknowledge and agree that AutoReturn may use data collected through the Services in an aggregated and anonymized manner for purposes of the case study and related marketing efforts, provided that AutoReturn employs data anonymization techniques that ensure Licensee cannot be reasonably identified from the data used in the case study or related marketing efforts.

(h) Customizations. The Services may include certain customized configurations, developments, or integrations of the Platform (each a "**Customization**") according to the specifications set forth in an Order Form, including without limitation the incorporation of Licensee's pre-existing proprietary trademarks, service marks, trade names, logos, branding, content, or other materials (collectively, "**Licensee Materials**"). Licensee hereby grants to AutoReturn the non-exclusive, royalty-free right to use, display, copy, modify, publish, and perform Licensee Materials solely for the purpose of developing and implementing the Customizations in accordance with the applicable Order Form. Such license shall be sublicensable to AutoReturn's affiliates and third-party contractors solely in connection with the foregoing permitted purpose. As between the Parties, AutoReturn shall be the sole owner of all right, title, and interest in and to Customizations (excluding Licensee Materials incorporated therein), which shall be considered Inventions (defined below) and subject to the provisions of Section 3(b). Customizations are licensed and not sold to Licensee.

2. Use of the Services.

(a) AutoReturn's Obligations. AutoReturn will use commercially reasonable efforts to make the Service available at all times, except for planned downtime and any unavailability caused by Force Majeure Events (defined below). AutoReturn and its employees, subcontractors, and sublicensees will maintain commercially reasonable administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of Data.

(b) Licensee's Obligations. Licensee acknowledges and agrees that it is responsible for the use or misuse of the Service by Authorized Users, and a breach by any Authorized User of any term of this Agreement will be deemed a breach by Licensee of this Agreement. Licensee will cooperate with AutoReturn in connection with the performance of this Agreement by making available such personnel and information as may be reasonably required, and taking such other actions necessary for the performance of this Agreement as AutoReturn may reasonably request.

3. Professional Services.

(a) General. AutoReturn will perform the Professional Services in accordance with any specifications set forth in such Order Form. Licensee will reasonably cooperate with AutoReturn to facilitate provision of Professional Services. This cooperation will include, without limitation, (i) performing any tasks reasonably necessary for AutoReturn to provide the Professional Services and to avoid unnecessary delays; (ii) fulfilling any Licensee obligations described in the applicable Order Form in a timely manner; and (iii) responding to AutoReturn's reasonable requests related to Professional Services in a timely manner. Notwithstanding anything in the applicable Order Form to the contrary, AutoReturn will not be liable for any delays in performing the Professional Services that arise, in whole from Licensee's acts or omissions, including, without limitation, its failure to comply with this Section 3(a).

(b) Intellectual Property Rights. AutoReturn solely owns all right, title and interest in and to any software, notes, records, drawings, designs or other copyrightable materials, inventions (whether or not patentable), improvements, developments, discoveries and trade secrets conceived, discovered, authored, invented, developed or reduced to practice by AutoReturn, solely or in collaboration with others, arising out of, or in connection with, AutoReturn performing the Professional Services, including any copyrights, patents, trade secrets, mask work rights or other intellectual property rights relating to the foregoing ("**Inventions**"). AutoReturn hereby grants to Licensee a non-exclusive, non-transferable, non-sublicensable, royalty-free and worldwide right during the Term to use the portion of the Inventions that is incorporated into any deliverables that AutoReturn provides to Licensee under the applicable Order Form solely to use any

such deliverables. AutoReturn reserves all rights not expressly granted in the prior sentence and does not grant any implied licensed under this Section 3.

4. Fees.

(a) Fees. As consideration for the Services rendered hereunder, Licensee will pay AutoReturn the fees, expenses, and other charges set forth in the applicable Order Form (collectively, "**Fees**") (collectively, "**Fees**"). Unless otherwise specified in an Order Form, all Fees will be due and payable within sixty (60) days from the date of the applicable invoice issued by AutoReturn. Except as expressly set forth in this Agreement, all Fees are non-cancellable and non-refundable. Taxes. The Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any applicable taxing authorities (collectively, "**Taxes**"). Licensee is responsible for paying all Taxes associated with its receipt of the Services (except for any Taxes based on AutoReturn's net income). If Licensee is legally entitled to an exemption from the payment of any Taxes, immediately following the date of the applicable Order Form, Licensee shall provide AutoReturn with valid, current tax exemption certificates and any other supporting documentation required to establish Licensee's tax-exempt status for each jurisdiction in which it claims an exemption.

5. Confidential Information.

(a) Definition of Confidential Information. As used herein, "**Confidential Information**" means all confidential information disclosed by a Party ("**Disclosing Party**") to the other Party and their employees, agents, subcontractors, and sublicensees ("**Receiving Party**"), that is proprietary or unique to the Disclosing Party, regardless of whether it is marked in writing as "confidential" or by a similar designation. For clarity, Confidential Information of AutoReturn also includes the AutoReturn technology underlying the Platform and any related non-public specifications, documentation or technical information that AutoReturn makes available to Licensee, as well as any personally identifiable information. Confidential Information will not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party without restriction prior to its disclosure by the Disclosing Party and without breach of any obligation owed to the Disclosing Party; (iii) is received from a third party without restriction and without breach of any obligation owed to the Disclosing Party; or (iv) was independently developed by the Receiving Party without use of or reference to any Confidential Information of the Disclosing Party.

(b) Protection of Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care). The Receiving Party may only use Confidential Information of the Disclosing Party to perform its obligations or exercise its rights under this Agreement. Subject to Section 5(d), except as expressly authorized by the Disclosing Party in writing, the Receiving Party will not disclose any Confidential Information of the Disclosing Party to any third party other than those of its and its affiliates' employees, contractors or agents who need such access to perform obligations under this Agreement and who agree to abide by substantially similar terms as those set forth in this Section 5.

(c) Terms of this Agreement. This shall be subject to the compelled disclosure provisions set forth in Section 5(d).

(d) Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is required by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If Receiving Party is compelled to disclose any Confidential Information of Disclosing Party as permitted by this Section 5(d), Receiving Party agrees to disclose only the information strictly necessary to comply with the applicable law.

6. Term and Termination.

(a) Term. This Agreement shall commence upon the date of the first Order Form, and, unless earlier terminated in accordance herewith, shall expire one (1) year after the Effective Date of this Agreement (the "**Term**"). Following the initial one (1) year Term of this Agreement, Licensee shall have the option to extend the Term for two (2) additional one (1) year terms (each a "**Renewal Term**") on the same terms and conditions set forth herein. For each Order Form, unless otherwise specified therein, the "**Order Form Service Term**" shall begin as of the effective date set forth on such Order Form, and unless earlier terminated as set forth herein, shall continue for the initial service term specified on such Order Form, provided that the Order Form Service Term does not exceed the overall Term or Renewal Term of the Agreement unless otherwise agreed upon by the Parties in writing.

(b) Termination. Either Party may terminate this Agreement upon thirty (30) days' prior written notice if the other Party is in material breach of this Agreement and the breaching Party fails to remedy such material breach within the thirty (30)-day notice period.

(c) Effect of Termination. Upon expiration or termination of this Agreement for any reason, the rights and licenses granted by AutoReturn hereunder will automatically terminate and Licensee shall immediately cease all use of and access to the Services. AutoReturn shall repay to Licensee a pro-rata portion of any prepaid Fees applicable to the period of time following the effective date of such termination. The provisions of Sections 1(b), 1(c), 1(e), 2(b), 3(b), 4, 5, 6(c), 7, 8, 9, 10 and 12 and all defined terms used in those Sections, together with any provisions hereof which expressly by their terms survive, will survive any expiration or termination of this Agreement.

7. Representations and Warranties.

(a) Mutual. Each Party represents and warrants that: (i) it has the right, power and authority to enter into this Agreement and to grant the rights and licenses granted hereunder and to perform all of its obligations hereunder; (ii) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary organizational action of the Party; (iii) when executed and delivered by both Parties, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

(b) Licensee. Licensee further represents and warrants that it owns or otherwise has sufficient rights to the Data to grant the license set forth in Section 1(d).

(c) EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH UNDER THIS SECTION 7, THE SERVICES AND ANYTHING PROVIDED IN CONNECTION WITH THIS AGREEMENT BY AUTORETURN ARE PROVIDED ON AN "AS-IS" BASIS, AND LICENSEE ASSUMES ALL RESPONSIBILITIES FOR SELECTION OF THE SERVICES TO ACHIEVE LICENSEE'S INTENDED RESULTS, FOR THE ACCURACY AND/OR QUALITY OF ITS DATA, AND FOR ITS USE OF, AND RESULTS OBTAINED FROM, THE SERVICES. AUTORETURN DOES NOT WARRANT THAT THE SERVICES OR ANYTHING ELSE PROVIDED IN CONNECTION WITH THIS AGREEMENT WILL BE ERROR-FREE OR THAT THE SERVICES WILL WORK WITHOUT INTERRUPTIONS. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 7, AUTORETURN MAKES NO PROMISES, REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE SERVICES, AND AUTORETURN HEREBY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, AS WELL AS ANY LOCAL JURISDICTIONAL ANALOGUES TO THE FOREGOING.

8. Limitations on Liability. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, (I) EXCEPT WITH RESPECT TO SECTION 9, IN NO EVENT WILL EITHER PARTY'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED \$1MILLION OR AMOUNTS RECOVERABLE UNDER THE OTHER PARTY'S INSURANCE, WHICHEVER IS GREATER; AND (II) EXCEPT TO THE EXTENT SUCH DAMAGES ARE PAID OR PAYABLE TO UNAFFILIATED THIRD PARTIES PURSUANT TO EITHER PARTY'S OBLIGATIONS PURSUANT TO SECTION 9, IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, FOR LOST PROFITS, DATA OR OTHER BUSINESS OPPORTUNITIES), HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE. THIS SECTION 8 DOES NOT LIMIT EITHER PARTY'S LIABILITY FOR INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

THE EXCLUSIONS AND LIMITATIONS OF THIS SECTION 8 SHALL NOT APPLY TO: (i) EITHER PARTY'S INDEMNIFICATION OBLIGATION; (II) CLAIMS ARISING OUT OF A PARTY'S BREACH OF CONFIDENTIALITY OBLIGATIONS; (III) PERSONAL INJURY CLAIMS; AND (IV) CLAIMS ARISING OUT OF PARTY'S FRAUD OR WILLFUL MISCONDUCT.

9. Indemnification.

(a) Licensee. Licensee will defend, indemnify, and hold harmless AutoReturn, its Affiliates, and its and their respective officers, directors, employees, agents, successors, and assigns from and against all third-party claims ("**Third Party Claims**"), and all losses, damages, liabilities, settlements, costs, and expenses (including reasonable attorney's fees),

in each case, that are paid or payable to third parties pursuant to such Third Party Claims, to the extent such Third Party Claims (1) arise from any Licensee Data (including, without limitation, any allegation that (i) any Licensee Data infringes, violates, or misappropriates the personal, intellectual property, or proprietary rights of any third party, and/or (2) arise from the violation of any applicable law or regulation by Licensee or Licensee Data. "Affiliate" means any entity controlling, controlled by, or under common control with a party hereto, where "control" means the ownership of more than 50% of the voting securities in such entity.

(b) **AutoReturn.** AutoReturn will defend, indemnify, and hold harmless Licensee, its Affiliates, and its and their respective officers, directors, employees, agents, successors, and assigns from and against all Third Party Claims, and all losses, damages, liabilities, settlements, costs, and expenses (including reasonable attorney's fees), in each case, that are paid or payable to third parties pursuant to such Third Party Claims, to the extent such Third Party Claims (i) arise out of or is in connection with AutoReturn's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, regardless of Licensee's passive negligence, but excepting such loss or damage which is caused by the sole active negligence or willful misconduct of the Licensee and (ii) allege that the Platform (not including any Licensee Data) infringes, violates, or misappropriates such third party's intellectual property right(s) ("**Infringement Claim**"). In the event of an Infringement Claim, AutoReturn, at its sole option and expense, may: (i) procure for Licensee the right to continue using the Platform or the allegedly infringing part thereof; (ii) modify the Platform so that it is no longer infringing; (iii) replace the Platform or the allegedly infringing part thereof with other non-infringing software, applications, or materials having substantially the same capabilities; or, (iv) terminate this Agreement and repay to Licensee a pro-rata portion of the Fees applicable to the period of time following the effective date of such termination. Notwithstanding the obligations, AutoReturn will have no liability for an Infringement Claim to the extent the actual or alleged infringement, misappropriation, or violation results from (a) any violation of this Agreement by Licensee or any Authorized Users; (b) any modification, alteration or addition made to the Platform made by a person or entity other than AutoReturn; (c) any failure by Licensee or any Authorized Users to use any updates made available by AutoReturn; (d) any settlements entered into by Licensee or costs incurred by Licensee for the Infringement Claim that are not pre-approved by AutoReturn in writing; or (e) the combination of the Platform with any software, hardware, or other material not directly provided by AutoReturn hereunder.

(c) **Procedures.** Each Party's obligations pursuant to Sections 9(a) and 9(b) above (respectively) are expressly conditioned on: (a) the Party seeking indemnification under this Section 9 ("**Indemnified Party**") providing the other Party ("**Indemnifying Party**") with prompt written notice of the applicable Third Party Claim for which the Indemnified Party seeks indemnification; (b) the Indemnified Party reasonably cooperating in the defense and/or settlement of such Third Party Claim, at the Indemnifying Party's sole expense; and (c) the Indemnifying Party having control over the defense and/or settlement of such Third Party Claim, provided that the Parties mutually agree on the defense strategy, at the Indemnifying Party's sole expense, and settlement of any such Third Party Claim. The Indemnifying Party may not agree to any settlement of any Third Party Claim against the Indemnified Party that admits wrongdoing by the Indemnified Party, or otherwise imposes any material obligation on the Indemnifying Party (not entirely covered by an indemnification obligation hereunder), without the Indemnified Party's prior express written consent, which consent will not be unreasonably withheld, conditioned or delayed. The Indemnified Party may participate in the defense of a Third Party Claim through counsel of its own choice at its own expense.

10. **Records.** AutoReturn shall maintain all records and supporting documentation pertinent to AutoReturn's compliance with applicable laws with respect to the products set forth on the applicable Order Form for a period of no less than three (3) years after the termination or expiration of this Agreement. If any litigation involving these records has been started before the expiration of the three (3) year retention period, the records shall be retained until resolution of such litigation.

11. **Insurance.** AutoReturn will maintain insurance policies for the duration of this Agreement providing at least the following coverage and will, before performance of this Agreement, provide a certificate of insurance evidencing the following: (i) Technology Products and Services Errors & Omissions liability with a limit of at least \$1 Million per occurrence; (ii) Technology & Cyber Security liability with a limit of at least \$1 Million per occurrence; (iii) Commercial General liability with a limit of at least \$1 Million per occurrence; (v) Workers Compensation and Employer's liability that meets the statutory limits; and (vi) Umbrella liability with a limit of at least \$3 million. AutoReturn also agrees that it will be solely responsible for ensuring that its agents (including contractors and subcontractors) maintain other insurance at levels no less than those required under this Agreement. For liability coverages, the insurance certificate shall list the Licensee as Certificate Holder and name as additional insureds "Licensee, and its officers, agents and employees," and an endorsement to the liability policy shall confirm the naming of the Licensee as an additional insured. Each insurance policy shall be issued by a financially responsible insurance company or companies admitted and authorized to do business in the State of California, or which is approved in writing

by Licensee. The insurer shall agree to waive all rights of subrogation against the Licensee and its officers, agents, and employees for losses arising from services performed by AutoReturn for Licensee. Insurance provided under this Section shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days written notice has been received by the Licensee. AutoReturn shall provide certificates of insurance with original endorsements to Licensee as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with Licensee on or before commencement of performance of this Agreement. Failure on the part of AutoReturn or its agents to procure or maintain required insurance shall constitute a material breach of contract under which the Licensee may terminate this Agreement pursuant to Section 6 above.

12. Miscellaneous. Each Party agrees that any violation or threatened violation of this Agreement may cause irreparable injury to the other Party, entitling such Party to seek injunctive relief in addition to all available remedies. Neither Party may assign this Agreement or any rights under it, in whole or in part, without the other Party's prior written consent. Any attempt to assign this Agreement other than as permitted above will be void. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, then the remaining provisions of this Agreement will remain in full force and effect. This Agreement will be governed by and construed under the laws of the State of California without reference to its conflict of laws principles and exclusive venue for any action involving this agreement will be in San Diego County, California. This Agreement, including all Order Forms referencing this Agreement, embodies the entire agreement between the Parties with respect to the subject matter set forth herein and supersedes any previous or contemporaneous communications, whether oral or written, express or implied. This Agreement may be modified or amended only by a writing signed by both Parties. If there is any conflict or inconsistency between the terms of any Exhibit and the terms in the body of this Agreement, then the terms in the body of the Agreement will control solely to the extent of the conflict. The delay or failure of either Party at any time to require performance or compliance by the other Party of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. All waivers made under this Agreement must be made in writing by the Party making the waiver. Any notice required or permitted to be given under this Agreement will be effective if it is (i) in writing and sent by certified or registered mail, or insured courier, return receipt requested, to the appropriate Party at the address set forth above and with the appropriate postage affixed; or (ii) sent via email to the contacts for each Party set forth on the Order Form and in any event, in the case of AutoReturn, also to info@autoreturn.com, and in the case of Licensee, also to Jonathan Alegre at jalegre@chulavistapd.org. Either Party may change its address for receipt of notice by notice to the other Party in accordance with this Section. Notices are deemed to be made two (2) business days following the date of mailing, one (1) business day following delivery to a courier, and/or on the same day a facsimile or electronic mail is sent to the recipient. AutoReturn will not be liable or responsible to Licensee, nor be deemed to have breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of AutoReturn including, without limitation, acts of God, natural disaster, pandemic, denial or services attacks and/or service provider system outages (collectively, "**Force Majeure Events**"). This Agreement may be signed in counterparts, each of which will be deemed an original, and all of which together will constitute a single agreement.

* * *

ATTACHMENT A: SUPPORT LEVEL AGREEMENT

1. This Support Level Agreement (this “SLA”) provides the support terms for the AutoReturn Services and related Software and is an integral part of the AutoReturn Service Agreement. AutoReturn will use commercially reasonable efforts to provide technical support to Licensee 24 hours each day, seven days each week, including national holidays (“**Support**”). To request Support, Licensee must contact AutoReturn using one of the following methods:

- (a) On-line Help Desk: <https://support.autoreturn.com>
- (b) Email: helpdesk@autoreturn.com
- (c) Phone Support for Licensee: 877-787-5006

2.

(a) **Provision of Support.** AutoReturn will provide Support to the Licensee’s designee. AutoReturn will not be responsible for addressing or resolving Events (defined below) that AutoReturn reasonably determines are caused by Licensee’s systems or any misuse of the Platform.

(b) **Events.** “**Events**” are occurrences that impact the availability of the Platform, except for scheduled downtime, as determined by AutoReturn in its reasonable discretion. AutoReturn distinguishes among three classes of Events as follows:

- (i) **Class 1 Event:** A complete loss of the Platform’s functionality such that at least approximately 50% of the users cannot access or use the Platform for its intended purpose.
- (ii) **Class 2 Event:** The Platform’s functionality is materially impaired such that at least approximately 10% of users cannot use the Platform for its intended purpose.
- (iii) **Class 3 Event:** Any other problems or issues, including, without limitation, any general questions about the Platform or problems that do not rise to Class 1 Events or Class 2 Events.

(c) **Response Times.** AutoReturn will use commercially reasonable efforts to respond to Licensee support requests in accordance with the target response time frames set forth below, which begin at the time AutoReturn receives a Support request:

<u>Class</u>	<u>Target Resolution Time</u>
1	4 hours or better
2	12 hours or better
3	5 business days

(d) **Scheduled Maintenance Downtime.** AutoReturn will use commercially reasonable efforts to schedule maintenance between the hours of 10PM and 4AM Pacific Standard time. AutoReturn will provide Licensee with reasonable advance written notice of scheduled downtime unless otherwise reasonably necessary to address an emergency or critical error. AutoReturn may access the Platform during the scheduled maintenance downtimes for maintenance purposes and to implement Platform updates, bug fixes and/or any other changes that AutoReturn deems necessary or advisable.