



TRIAL PRODUCT SERVICES AGREEMENT

This Product Services Agreement (“Agreement”) is by and between FaceFirst, LLC., a Delaware LLC. (hereinafter referred to as “FaceFirst”), and Customer, as identified below. This Agreement is effective as of the date of the last signature below (“Effective Date”). This Agreement includes the attached terms and conditions and any and all exhibits or attachments attached hereto.

Customer desires to subscribe to a provisional license for the “FaceFirst” biometric facial recognition and alerting system, which is comprised of certain software, and related services described in this Agreement. Therefore, in consideration of the mutual promises, covenants, and conditions contained in this Agreement, the sufficiency of which is hereby acknowledged, intending to be legally bound hereby, the parties agree as follows:

ORDER FORM

(See Section 1 for definitions)

FaceFirst:

FaceFirst, LLC
1070 Flynn Road
Camarillo, CA 93012
Tel: 805-482-8428

Customer :

San Diego Data Processing Corporation
5975 Santa Fe Street
San Diego, CA 92109
Attention: Executive Director

Subscription Fees: (Details of payments are set forth in Section 5 and Exhibit B of this Agreement)

Products/Services	Initial Fees	Monthly Fees
Product Subscription (including standard Services as set forth in <u>Exhibit A</u>)	\$115,000.00	N/A
TOTAL	\$115,000.00	N/A

Effective Date: 1- Jan – 2013

FaceFirst Biometric Platform Provisional License Details:

Trial Term: 1 Year beginning 1-Jan-2013 and ending 31-Dec-2013

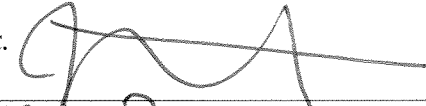
Maximum # of Enrollments (FaceFirst Platform): 2,000,000


Maximum # of Enrollments (Cognitec FaceVacs v4.7 Platform): 2,000,000

Maximum # of Mobile Application Clients: 50

Maximum # of Web Portal Users: 50

IN WITNESS WHEREOF, the authorized representatives of the parties, intending to be legally bound hereby, have executed this Agreement, including without limitation the terms, conditions and any exhibits and attachments following this page, as of the Effective Date.

FaceFirst, LLC.
By: 
Name (print): JOSEPH ROSENKRANTZ
Title: CEO
Date: 27-DEC-2012

SAN DIEGO DATA PROCESSING CORPORATION
By: 
Name: Larry Morgan
Title: Executive Director
Date: December 24, 2012

TERMS AND CONDITIONS

1. Definitions. As used in this Agreement, the following capitalized terms shall have the following meanings:

“FaceFirst Supplied Equipment” means the hardware and other equipment identified in Column C of the table in Exhibit C and supplied by FaceFirst as part of the Product pursuant to this Agreement. For the avoidance of doubt, any parts of hardware and equipment supplied by Customer (including any part marked in Column D of the table in Exhibit C as a “Customer Supplied Equipment”) shall not be deemed to be an “FaceFirst Supplied Equipment” under this Agreement.

“Customer Supplied Equipment” means the hardware and other equipment identified in Column D of the table in Exhibit C and supplied by Customer, or procured by FaceFirst on behalf of Customer pursuant to Section 13 of this Agreement.

“Documentation” means the manuals, handbooks, and other written materials related to the use of the Product or that customarily accompany the Product, whether in hard copy or soft copy form and whether they are authored by FaceFirst or third parties.

“Enrollment” means the enrollment, or otherwise inclusion, of Personal Data of an individual person in the Product’s database. Each such enrollment or inclusion of Personal Data of an individual person shall constitute an Enrollment (as defined herein) even if the Personal Data of such individual person is subsequently deleted or otherwise removed from such database.

“Equipment” means, collectively, the FaceFirst Supplied Equipment and the Customer Supplied Equipment.

“Installation Services” means services to be provided by FaceFirst to Customer in connection with the installation of the Product by FaceFirst at Customer’s site in accordance with the terms of Exhibit A.

“Personal Data” means any data identifiable to, or associated with, a natural person, which are collected, entered into, or otherwise gathered in connection with use of the Product. Personal Data, includes, without limitation, personal biometric data, any personal demographic data, or any other personally identifiable data.

“Product” means FaceFirst’s “FaceFirst” biometric facial recognition and alerting system and, collectively, its component Software, Upgrades, FaceFirst Supplied Equipment and Services (but excluding the Customer Supplied Equipment).

“Professional Services” means, to the extent applicable under this Agreement, the professional services to be provided by FaceFirst to Customer identified on Exhibit D to which Customer has subscribed. For the avoidance of doubt, FaceFirst shall not be required to provide any professional services unless a description of such professional services is set forth in Exhibit D and such exhibit is entered into by both FaceFirst and Customer.

“Services” means, collectively, the Installation Services, Support Services and (if applicable) Professional Services.

“Software” means any software made available to Customer as part of the Product during the Term of this Agreement, including all Upgrades made generally available during the Term of this Agreement.

“Support Services” means maintenance and support services provided by FaceFirst to Customer pursuant to Exhibit A.

“Term” means the Trial Term, the Initial Term and/or a Renewal Term (each as defined in Section 9), as applicable.

“Upgrades” means bug fixes, patches, and/or maintenance releases of the Software that may be provided to Customer as part of the Services. For the avoidance of doubt, an “Upgrade” does not include any new versions of software which represents a new product or include new features or functionalities.

2. FaceFirst Grant of License.

2.1. Trial License. Subject to the terms and conditions of this Agreement, FaceFirst hereby grants to Customer, on behalf of the San Diego Association of Governments-Automated Regional Justice Information System (“SANDAG-ARJIS”), a non-transferable, non-sublicensable, non-exclusive right and license

during the Trial Term to use the Product (including the Software) on a trial basis solely for Customer's internal purposes and the internal purposes of SANDAG-ARJIS and in accordance with the instructions contained in the Documentation, to enable the Customer to provisionally operate the Product.

2.2. Product Description. The description of the Product is set forth in Exhibit A attached hereto. Customer's internal use of the data generated by the Product shall be at the sole responsibility of Customer, provided that such use shall be in compliance with the provisions of this Agreement (including Section 15.2 hereof).

2.3. License. Subject to the terms and conditions of this Agreement, FaceFirst hereby grants to Customer, on behalf SANDAG-ARJIS, a non-transferable, non-sublicensable, non-exclusive right and license during the Trial Term, as applicable, to use the Product (including the Software) solely for Customer's internal purposes and the internal purposes of SANDAG-ARJIS and in accordance with the instructions contained in the Documentation, subject to the limitation on the maximum number of Enrollments and user licenses specified in the Order Form on the first page of this Agreement. Customer's internal use of the data generated by the Product shall be at the sole responsibility of Customer, provided that such use shall be in compliance with the provisions of this Agreement (including Section 15.2 hereof).

3. License Restrictions. Customer shall not: (i) remove, alter, cover or obscure any notice or mark (including authorship credits, serial numbers or other attributes serving as identification) that appears on the Product; (ii) remove, change or make otherwise unrecognizable any copyright protections or specifications as well as indications on prevailing rights of protection on the Product or any components thereof; (iii) use, maintain or operate the Product other than in accordance with the Documentation and this Agreement; (iv) except as permitted herein, reverse engineer, decompile, modify, translate or otherwise create derivative works from the Product or the Software or attempt to discover any source code or underlying ideas or algorithms of the Product or the Software, except as this provision may be expressly prohibited by applicable statutory law; (v) make copies or duplicates of the Product or the Software or any components thereof; (vi) export the Product or any of its components in violation of any export control laws or other regulations of the United States or any other government; or (vii) register (or make any filing with respect to) FaceFirst's name, trade names, trademarks, service marks, and logos ("Marks") relevant to the subject matter of this Agreement, or any trademark, name or other designation confusingly similar thereto, or contest the use by (or authorized by) FaceFirst of any Mark.

4. FaceFirst Services and Training.

4.1. Trial Services. Subject to the terms and conditions of this Agreement, during the Trial Term, FaceFirst will provide a license to the Product in accordance with the product description described on Exhibit A, solely as necessary to allow Customer to operate the Product. Additionally, during the Trial Term, FaceFirst shall provide telephone Support Services to Customer as set forth in Exhibit A. On Site Support Services requested by Customer to be provided during the Trial Term shall be considered professional services and provided in accordance with Exhibit D. Each party shall designate a contact person (and one or more backup contacts) to be primarily responsible for coordination of such Services (the "Customer Contact").

4.2. Professional Services. During the Trial Term, professional services shall be charged at a rate agreed upon by the parties. During the Initial Term and Renewal Term(s), as applicable, upon mutual written agreement of the parties, as evidenced by execution and delivery of Exhibit D attached to this Agreement, FaceFirst shall provide Professional Services as set forth in Exhibit D to Customer at the rates specified in Exhibit D (or at such other rates as agreed to in writing by the parties from time to time).

5. Fees and Payment Terms: In consideration of the rights and services provided to Customer under this Agreement, during the Trial Term, Customer shall pay FaceFirst the applicable fees as set forth in Exhibit B attached hereto. Except where stated otherwise, all amounts shall be paid in U.S. dollars, are due within twenty (20) days after receipt of invoice and shall be either mailed to FaceFirst's address as set forth in the Order Form on the first page of this Agreement or via wire transfer of immediately available funds per the wire transfer instruction set forth in Exhibit B. Customer acknowledges and agrees that the fees set forth in Exhibit B are predicated on the maximum number of Mobile Users, Portal Users, and Enrollments set forth in such Order Form, and that any increase in the actual number Mobile Users, Portal Users, or Enrollments shall result in an increase in the amount of fees due under this Agreement as set forth in such Order Form. For any undisputed amount that is not paid within twenty (20) days after it is due, FaceFirst reserves the right to charge interest at a rate of one percent (1%) per month or if less, the highest rate allowed by applicable law, from the date such payment became due.

6. Ownership Rights. Customer acknowledges and agrees that the Product, including the Software and Documentation, are valuable commercial products of either FaceFirst (the development of which have involved expenditure by FaceFirst of substantial time and money) or FaceFirst's suppliers and vendors ("FaceFirst Suppliers"). Customer further acknowledges and agrees that, as between FaceFirst and Customer, except for the limited license expressly granted by FaceFirst to Customer pursuant to Section 2 of this Agreement, FaceFirst (or FaceFirst's Suppliers) owns and reserves, and shall continue to own and reserve, all rights, title and interests in and to the Product, the Software, the Upgrades, the Documentation and the FaceFirst Supplied Equipment, including all intellectual property rights embodied therein, and Customer shall not (a) claim or assert any right, title or interest therein or thereto or (b) use or permit the use of the Product, the Software, the Upgrades, the Documentation or the FaceFirst Supplied Equipment, except as expressly permitted by this Agreement. Customer (or Customer's suppliers) owns and reserves, and shall continue to own and reserve, all rights, title and interests in and to the Personal Data, the Customer Supplied Equipment and the Third Party Products.

7. Audit Rights. During the Initial Term and Renewal Term(s), as applicable, FaceFirst shall have the right, at its sole costs and expense, to conduct during normal business hours (but not more than once in any 12-month period) an audit of Customer's records to verify compliance with the terms of this Agreement, including, without limitation, the number of Enrollments, Mobile Users, and Portal Users, being used by Customer. If Customer breaches its obligations under this Agreement, Customer shall pay the reasonable expenses associated with such audit.

8. Confidential Information.

8.1. Except as otherwise provided in this Section 8, each party agrees that all business, technical and financial information it obtains from the other party that is designated as confidential or proprietary in writing, or is disclosed in such a manner that a reasonable person would understand the nature and confidentiality of the information disclosed, is and shall be the confidential property of the disclosing party ("Confidential Information" of the disclosing party). Each party's software, inventions, algorithms, know-how, and specific security procedures and protocols disclosed to the other party hereunder shall be considered the Confidential Information of the disclosing party. Without limiting the foregoing, the Product, the Software, the Upgrades, the Documentation, any Personal Data, and the terms and conditions of this Agreement shall all be considered Confidential Information under this Agreement. Confidential Information shall not include information that is: (i) previously rightfully known to the receiving party without restriction on disclosure, (ii) hereafter becomes known to the general public, through no act or omission on the part of the receiving party, (iii) disclosed to the receiving party by a third party without breach of any separate nondisclosure obligation, or (iv) independently developed by the receiving party without access to the Confidential Information of the disclosing party, *provided* that only the specific information that meets one of the above exclusions shall be excluded and not any other information that happens to appear in proximity to such excluded portion (for example, a portion of a document may be excluded without affecting the confidential nature of those portions that do not themselves qualify for exclusion).

8.2. Except as expressly and unambiguously allowed herein, the receiving party will hold in confidence and not use or disclose any Confidential Information of the disclosing party and shall similarly require its employees, consultants and independent contractors to comply with the foregoing.

8.3. If required by law, the receiving party may disclose Confidential Information of the disclosing party, but will give adequate prior notice of such disclosure to the disclosing party to permit the disclosing party to intervene and to request protective orders or other confidential treatment.

9. Term & Termination.

9.1. Term. The Trial Term of this Agreement (during which time the Customer shall be granted the limited license set forth in Section 2.1) shall commence as of the Effective Date as set forth on the Order Form on the first page of this Agreement and continue for a term of twelve (12) months (the "Trial Term") from the Effective Date, unless sooner terminated pursuant to Section 9.2(i) below.

9.2. Termination. Subject to Section 9.3, this Agreement may be terminated by either party in the event the other party breaches a material provision of this Agreement and fails to cure such breach within thirty (30) calendar days after receiving written notice of such breach from the non-breaching party; (iii) immediately upon written notice if the other party makes any assignment for the benefit of creditors, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of any or all of the other party's property, or the other party seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement or comparable

proceeding (or such a proceeding is instituted against the other party and not dismissed within ninety (90) calendar days), or the other party becomes insolvent or, without successor, dissolves, liquidates or otherwise fails to operate in the ordinary course; or (iv) at the end of the Initial Term or any Renewal Term as set forth in Section 9.1 above. Except as set forth in this Section 9.2, neither FaceFirst nor Customer may terminate this Agreement before the expiration of the Trial Term and the fees set forth in this Agreement are predicated on this Agreement being effective through the entire duration of the Initial Term or Renewal Term (as applicable). Notwithstanding the foregoing, nothing in this Agreement shall restrict or prohibit any party from seeking an appropriate remedy for any breach of this Agreement by the other party, subject to the limitations of liability provisions set forth therein.

9.3. Effect of Termination. Upon termination or expiration of the term of this Agreement for any reason (i) all licenses and other rights granted to Customer under this Agreement will terminate (ii) each party shall cease use of and return to the other party all Confidential Information of the other party (iii) FaceFirst shall promptly remove all Personal Data from the Product including from the FaceFirst Supplied Equipment and Software, and (iv) Customer will promptly ship and return to FaceFirst, at Customer's costs and expenses, the Product, including the FaceFirst Supplied Equipment, the Software and the Documentation and all copies thereof in its possession or control. Sections 3, 5, 6, 7, 8, 9.3, 10.3, 11, 12, 14 and 15 will survive termination or expiration of this Agreement for any reason.

10. Representations, Warranties and Disclaimers.

10.1. Both Parties. Each party represents and warrants to the other that: (i) it has full corporate power and authority to enter into this Agreement, (ii) each party's signatory to this Agreement is duly authorized to sign this Agreement on behalf of such party to which its signature appears and (iii) it will not, by virtue of entering into and performing this Agreement, be in violation of any material term of its Articles of Incorporation or Bylaws (or similar organizational documents) or any term or provision of any material contract, agreement, instrument, judgment or decree to which it is a party or by which it is bound.

10.2. FaceFirst Warranties.

10.2.1. FaceFirst warrants that, during the Trial Term and subject to the disclaimers in Section 10.3 below, the Software shall in all material respects conform to FaceFirst's specifications for such Software as set forth in this Agreement and be free from defects in design, material and workmanship.

10.2.2. FaceFirst warrants that, during the Trial Term as applicable, and subject to the disclaimers in Section 10.3 below, the FaceFirst Supplied Equipment shall in all material respects conform to the manufacturer's specifications for such FaceFirst Supplied Equipment and be free from defects in design, material and workmanship

10.2.3. FaceFirst warrants that, during the Trial Term, subject to the disclaimer in Section 10.3 below, the Services will be performed in a good and workmanlike manner by FaceFirst.

10.3. Disclaimers.

10.3.1. EXCEPT AS SET FORTH IN THIS AGREEMENT, THE PRODUCT (INCLUDING THE SOFTWARE) AND THE SERVICES PROVIDED BY FACEFIRST IN CONNECTION WITH THIS AGREEMENT ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND. EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, FACEFIRST HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, ACCURACY, FREEDOM FROM SOFTWARE ERRORS, RELIABILITY, AND RESULTS PROVIDED, AND ALL WARRANTIES IMPLIED FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

10.3.2. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE GATHERING, STORING, TRANSMITTING AND ANY OTHER USE AND PROCESSING OF PERSONAL DATA (AS DEFINED IN THIS AGREEMENT), INCLUDING THE ADMINISTRATION AND IMPLEMENTATION OF PROTOCOLS AND PROCEDURES WITH RESPECT TO THE USE AND PROCESSING OF PERSONAL DATA SHALL BE UNDER THE SOLE CONTROL AND RESPONSIBILITY OF CUSTOMER. TO THE

EXTENT FACEFIRST HAS ANY ACCESS TO PERSONAL DATA, SUCH ACCESS SHALL BE SOLELY LIMITED TO PROVIDING THE PRODUCT AND THE SERVICES TO CUSTOMER PURSUANT TO THIS AGREEMENT, AND FACEFIRST SHALL NOT HAVE ANY CONTROL OR RESPONSIBILITY ARISING FROM SUCH ACCESS OTHER THAN TO PROVIDE THE PRODUCT AND THE SERVICES TO CUSTOMER UNDER THE TERMS AND CONDITIONS OF THIS AGREEMENT.

10.3.3. FACEFIRST MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE ACCURACY AND RELIABILITY OF THE PRODUCT IN THE PERFORMANCE OF ITS FACIAL RECOGNITION CAPABILITIES. FACEFIRST DISCLAIMS ANY RESPONSIBILITY OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY FALSE IDENTIFICATION OR MISIDENTIFICATION ARISING FROM THE USE OF THE PRODUCT.

10.3.4. NOTHING IN THIS AGREEMENT, EXPRESS OR IMPLIED, IS INTENDED TO CONFER UPON ANY PARTY OTHER THAN THE PARTIES HERETO OR THEIR RESPECTIVE SUCCESSORS AND ASSIGNS ANY RIGHTS, REMEDIES, OBLIGATIONS, OR LIABILITIES UNDER OR BY REASON OF THIS AGREEMENT. CONSEQUENTLY, THIS AGREEMENT SHALL NOT CONFER ANY RIGHTS OR REMEDIES TO ANY THIRD PARTIES ALLEGEDLY AGGRIEVED IN CONNECTION WITH THE USE OF THE PRODUCT BY CUSTOMER.

10.3.5. To the extent permitted by law, no warranty applies to the Product, or any component thereof (including the FaceFirst Supplied Equipment, the Software and the Documentation), to the extent that such Product or component thereof has been: (i) modified (except to the extent that FaceFirst has agreed in writing that the warranty will continue to apply with the modification); (ii) damaged by occurrences, acts or omissions other than acts or omissions of obligation by FaceFirst, (iii) used, maintained, installed, operated, or repaired by any entity (other than FaceFirst or an FaceFirst authorized service provider) in a manner that is not in conformance with the Documentation or applicable FaceFirst published guidelines; (iv) used with any products, deliverables or other materials not covered by the FaceFirst warranty, to the extent the problems are attributable to such use; or (v) obtained from any entity other than FaceFirst or a person authorized in writing by FaceFirst to provide the product or service deliverable.

11. Limitation of Liability. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT OR OTHERWISE TO THE CONTRARY, AND EXCEPT FOR CLAIMS ARISING FROM (I) BREACHES OF LICENSE RESTRICTIONS (SECTION 3) OR CONFIDENTIALITY (SECTION 8), OR (II) AMOUNTS PAYABLE PURSUANT TO THE INDEMNIFICATION OBLIGATIONS (SECTION 12), NEITHER PARTY WILL BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, RELIANCE OR CONSEQUENTIAL DAMAGES, OR AMOUNTS IN EXCESS OF THE AMOUNTS PAYABLE UNDER THIS AGREEMENT, IN EACH CASE WITHOUT REGARD TO WHETHER THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS ARE INDEPENDENT FROM ALL OTHER PROVISIONS OF THIS AGREEMENT AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY REMEDY PROVIDED HEREIN. FOR THE AVOIDANCE OF DOUBT, FACEFIRST SHALL NOT BE RESPONSIBLE, AND SHALL HAVE NO LIABILITY TO CUSTOMER OR ANY THIRD PARTIES ALLEGEDLY AGGRIEVED IN CONNECTION WITH THE USE OF THE PRODUCT BY CUSTOMER.

12. Indemnification.

12.1. FaceFirst's Obligations. FaceFirst shall defend at its expense any legal proceeding brought by a third party against Customer to the extent the proceeding is based on a claim by a third party that the Product and the Software licensed under this Agreement (but excluding the Customer Supplied Equipment) and unmodified from the form provided by FaceFirst infringes that third party's patents or copyrights or misappropriates that third party's trade secrets ("IP Claim"), and shall indemnify Customer against all damages and costs attributable to the IP Claim.

12.2. Customer's Obligations. Customer shall defend at its expense any legal proceeding brought by a third party against FaceFirst to the extent the proceeding is based on a claim by a third party that (i) Customer failed to comply or otherwise violated any applicable law (including laws related to the use, processing or

protection of Personal Data) in Customer's use of the Product licensed under this Agreement, and/or (ii) the data, content or materials provided to FaceFirst by Customer in connection with the performance under this Agreement infringes a third party's patents or copyrights or misappropriates that third party's trade secrets (in either case, the "Third Party Claim"), and shall indemnify FaceFirst against all damages and costs attributable to the Third Party Claim.

12.3. Procedures. The indemnifying party's indemnification obligations under this Section 12 are conditioned upon the indemnified party: (i) giving prompt notice of the claim to the indemnifying party; (ii) granting sole control of the defense or settlement of the claim or action to indemnifying party (except that indemnified party's prior written approval will be required for any settlement that reasonably can be expected to require a material affirmative obligation or admission of, or result in any ongoing material liability to, the indemnified party); and (iii) providing reasonable cooperation to the indemnifying party and, at the indemnifying party's request and expense, reasonable assistance in the defense or settlement of the claim.

12.4. Remedy. In the event that the Product or any Software licensed under this Agreement and unmodified from the form provided by FaceFirst infringe or are a misappropriation according to the IP Claim, or in the reasonable opinion of FaceFirst are likely to be the subject of an IP Claim, FaceFirst may, at its option and expense: (a) obtain for Customer the right to continue to use such Product or Software, as applicable; or (b) replace or modify the Product or Software, as applicable, in such a way that it substantially performs in the same manner or substantially provides the same results as the Product or Software, as applicable.

12.5. Exceptions. No indemnity will be provided for an IP Claim arising from: (i) use of Product or Software if the alleged infringement could have been avoided by the use of a different version made available to Customer by FaceFirst, at FaceFirst's expense, (ii) compliance by FaceFirst with Customer's custom designs or specifications, (iii) a violation of FaceFirst's license grant that gives rise to the IP Claim, or (iv) any claim that relates to open source or freeware technology or any derivatives or other adaptations thereof that is not embedded by FaceFirst into the Product.

13. Procurement of Third Party Products by FaceFirst.

13.1. Customer may from time to time request and FaceFirst may agree to procure third party products or other materials (the "Third Party Products") in connection with the provision of the Services that are not FaceFirst Supplied Equipment as set forth in Column E of the table in [Exhibit C](#). In such circumstances, FaceFirst shall procure the requested Third Party Products as a limited agent for Customer from the third party supplier and will pass through to Customer any terms and conditions applicable, including warranty terms and license terms in the case of software, as warranted or licensed by the third party manufacturer or importer. All orders for Third Party Products shall be in writing to be executed by both by FaceFirst and Customer and such orders are non-cancelable and non-returnable to FaceFirst. The Third Party Products shall constitute Customer Supplied Equipment under this Agreement.

13.2. FaceFirst shall not be liable or responsible for (i) any delays in delivery of the Third Party Products; (ii) warranty or continuing support and/or maintenance for any period of time with respect to the Third Party Products but will liaise between Customer and the third party supplier in respect of any warranty claims during the warranty period, unless otherwise agreed in an applicable statement of work or addendum to this Agreement; [(iii) continued compatibility of FaceFirst products and Third Party Products]; or (iv) patent or copyright infringements or the provision of an indemnity in respect of Third Party Products.

14. Non-Solicitation. The parties agree that throughout the Term of this Agreement and for a period of six (6) months after the termination or expiration of this Agreement, each party and any affiliates or subsidiaries, without prior management approval of the other party, shall not solicit any employee of the other party for employment (other than general solicitation not targeted to any specific employee), nor induce any employee of the other party in any way to leave his or her then-existing employment.

15. Miscellaneous.

15.1. Relationship of Parties. The parties hereto shall each be independent contractors in the performance of their obligations under this Agreement, and nothing contained herein shall be deemed to constitute either party as the agent or representative of the other party, or both parties as joint venturers or partners for any purpose. Each party is solely responsible for all of its employees and agents and its labor costs and expenses arising in connection therewith. Except as expressly provided herein, a party shall have no right to exercise any control

whatsoever over the activities or operations of the other party, or commit the other party to any obligation or course of action.

15.2. Data Use and Privacy. Each party shall generally comply with all laws, rules and regulations applicable to such party in the collection, use and protection of data (including Personal Data) under this Agreement. However, as between FaceFirst and Customer, Customer shall formulate the protocols, policies and procedures for the gathering, storing, transmitting, using and processing of data (including Personal Data), and consequently, Customer shall be responsible for affirmatively complying with all laws, rules and regulations applicable to the collection, use and protection of data (including Personal Data) in connection with the performance under this Agreement. In connection with Customer's use of the Product, as well as FaceFirst's provision of the Services, Customer shall obtain all necessary consents or authorizations to gather, store, transmit, process and use Customer's data and the personal information (and Personal Data) of any persons included (or to be included) as Enrollments in the Product database. Customer agrees to comply with applicable data privacy laws, rules and regulations and reasonably assist FaceFirst as necessary to enable FaceFirst's compliance with applicable data privacy laws, rules and regulations in connection with the performance of this Agreement. Customer will obtain FaceFirst's consent prior to using FaceFirst's name in any data privacy related disclosure or compliance effort.

15.3. Cooperation and Monthly Updates. The parties agree that during the Trial Term, the parties shall use their respective best efforts to consult with one another regarding the Product, its efficacy, potential improvements thereto and related feedback. The parties acknowledge that, during the Trial Term, the Product is being licensed on a trial basis and, as such, agree to cooperate in providing any information relevant to the development of the Product. In furtherance of the foregoing and to provide general status updates, the parties shall have a status call, no less than once per month, through their Customer Contacts.

15.4. Exporting and Importing. U.S. export controls and the trade laws of other countries may apply to the hardware and software supplied to Customer under this Agreement. Customer shall comply with all relevant export- and import-control laws and regulations. Customer is responsible for getting any licenses needed to export, re-export or import. Customer agrees not to export or re-export to anybody on the most current U.S. export exclusion lists or to any country under U.S. embargo (ban on trade) or terrorist controls.

15.5. Taxes. Each party shall, in addition to other amounts payable under this Agreement, pay all local, state, and federal taxes (but excluding taxes imposed on the other party's income) levied or imposed on such party pursuant to applicable law by reason of the transactions contemplated by this Agreement. Each party liable for such taxes pursuant to applicable law shall promptly reimburse the other party that pays such taxes on behalf of such liable party.

15.6. Publicity and Collaboration. The parties shall comply with the terms of Exhibit E regarding public announcements and press releases. Subject to the terms of this Agreement, Customer shall work with FaceFirst to publicly share the best practices in connection with the use of the Products as set forth in Exhibit F attached hereto.

15.7. Assignment. This Agreement shall be binding upon, and inure to the benefit of, the successors and permitted assigns of the parties hereto. Neither party may assign this Agreement, or its rights or obligations hereunder, without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed; provided, however, that: a) either party may so assign without the other party's consent to an affiliate of such assigning party or in the event of a sale of all or substantially all of such assigning party's business to a third party (whether by merger, consolidation, sale of assets, sale of stock or similar transaction); and, b) Customer may so assign to SANDAG-ARJIS without the consent of FaceFirst..

15.8. Governing Law; Alternate Dispute Resolution. This Agreement shall be governed by and construed under the laws of the State of California, without regard to conflicts of laws provisions thereof. Neither the United Nations Convention on Contracts for the International Sale of Goods nor any enactment of the Uniform Computer Information Transactions Act shall apply to this Agreement. Any and all claims or controversies arising out of or relating to this Agreement shall be resolved in accordance with the terms and contained in Section 313 of Contract 4500051314 between the parties.

15.9. Injunctive Relief. It is hereby understood and agreed that damages may be an inadequate remedy in the event of a breach by a party of Sections 3, 6 or 8 this Agreement and that any such breach may cause the other party great and irreparable injury and damage. Accordingly, each party agrees that the other party may be entitled, without waiving any additional rights or remedies otherwise available to the other party at law

or in equity or by statute, to seek injunctive and other equitable relief in the event of a breach or intended or threatened breach of such sections of this Agreement.

15.10. Modification. This Agreement may only be modified by an instrument in writing duly executed by authorized representatives of both parties, making specific reference to this Agreement and the clause to be modified.

15.11. Waiver. No provision of, right, power or privilege under this Agreement shall be deemed to have been waived by any act, delay, omission or acquiescence on the part of any party, its agents or employees, but only by an instrument in writing signed by an authorized representative of each party. No waiver by any party of any breach or default of any provision of this Agreement by the other party shall be effective as to any other breach or default, whether of the same or any other provision and whether occurring prior to, concurrent with, or subsequent to the date of such waiver.

15.12. Force Majeure. In the event that either party is prevented from performing, or is unable to perform, any of its obligations under this Agreement due to any cause beyond the reasonable control of the party invoking this provision, which cause shall include earthquakes, floods, fires, riots, or failures or delay in transportation or communications (but which shall not include lack of funds of such party), the affected party's performance shall be extended for the period of delay or inability to perform due to such occurrence.

15.13. Headings. Headings and captions are for convenience only and are not to be used in the interpretation of this Agreement.

15.14. Notices. Notices under this Agreement shall be sufficient only if in writing and personally delivered, sent by confirmed facsimile, delivered by a major commercial rapid delivery courier service or mailed by certified or registered mail, return receipt requested to a party at its address first set forth in the preamble to this Agreement or as may be amended by notice pursuant to this subsection. If not received sooner, notice by mail shall be deemed received five (5) days after deposit in the U.S. mails.

15.15. Entire Agreement. This Agreement together with the exhibits, schedules and attachments hereto constitute the entire agreement between the parties relating to the subject matter of this Agreement and supersedes all proposals, oral or written, all negotiations, conversations, letters of intent, memoranda of understanding, or discussions, whether written or oral, between or among parties relating to the subject matter of this Agreement and all past dealing or industry custom. All exhibits, schedules and attachments to this Agreement are incorporated into this Agreement by reference. All capitalized terms used and not defined in the exhibits, schedules and attachments to this Agreement shall have the meanings ascribed to such terms in this Agreement.

15.16. Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.

15.17. Counterparts. This Agreement may be executed in one or more counterparts (including any facsimile counterparts), each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

EXHIBIT A

DESCRIPTION OF PRODUCT AND SERVICES

I. DESCRIPTION OF PRODUCT LICENSES

A. PROVISIONAL 12 MONTH FACEFIRST BIOMETRIC PLATFORM LICENSE

- a. 2,000,000 ENROLLMENTS CAPACITY (2,000,000 PEOPLE) LICENSE
- b. 50 MOBILE HANDSET USER LICENSES
- c. 50 WEB PORTAL USER SEAT LICENSES
- d. 3RD PARTY REPOSITORY CONNECTION LICENSE FOR UP TO TWO 3RD PARTY REPOSITORY CONNECTIONS (IE: COPLINK, DATAWORKS +)

B. PROVISIONAL 12 MONTH COGNITEC FACEVACS 4.7 LICENSE

- a. 2,000,000 ENROLLMENTS CAPACITY(2,000,000 PEOPLE) LICENSE

IV. SUPPORT SERVICES

A. Scope of Services

FaceFirst will provide technical support for the Customer Contact via telephone and email. Support personnel of FaceFirst shall assist the Customer Contact with questions or problems regarding the use of the Product. FaceFirst does not provide support for components developed by Customer or Customer Supplied Equipment.

B. Support

FaceFirst will provide telephone and email support from 9:00 AM to 6:00 PM Pacific Time, Monday through Friday. During scheduled FaceFirst holidays all inquiries will be responded to the next business day. FaceFirst will provide documentation to assist Customer Contact in resolving issues with the Product (including issues with both the Software and/or the FaceFirst Supplied Equipment).

Support Phone Number: 805-482-8428

Support Email: support@facefirst.com

C. Support Level Standards

Each inquiry will be treated as a priority and will be responded to by technically proficient representatives. FaceFirst will promptly respond to all email inquiries received during normal hours of operation. FaceFirst will respond to inquiries received during non-business hours during the next business day.

FaceFirst will promptly respond to all telephone inquiries during normal business hours. For telephone inquiries received during non-business hours a voicemail option is available and a Technical Assistance Center representative will respond the next business day.

FaceFirst will strive to resolve all inquiries within 48 hours after they are initially responded to. To the extent that a Customer inquiry is with respect to a FaceFirst Supplied Equipment or hardware issue for which FaceFirst is unable to provide assistance over the phone or remote control internet sessions, FaceFirst will ask Customer to provide an order for FaceFirst to send a trained technician to Customer's site within five business days to help resolve such hardware issue.

Any issue not resolved within Five business days will be escalated to the Support manager. Customers may request an issue be escalated at their discretion by notifying FaceFirst Support and requesting the issue be escalated.

D. Upgrades

Upgrades to the Software will be supplied to Customer at no charge during the Term. These include bug fixes, patches, and/or maintenance releases of the Software. Major new releases or new versions of the Software which represent a new product or include new features or functionalities will not be included and do not constitute “Upgrades”. Such major new releases or new versions of the Software are available for an additional charge and will require professional services to implement.

E. Customer Contact Information

Requests for support by Customer should be made by Customer Contact as defined in Section 4.1 of the Agreement.

F. Miscellaneous

More comprehensive levels of support are available and may be purchased at any time upon rates agreed upon by the parties.

EXHIBIT B

FEES AND PAYMENT TERMS

I. Product Service Subscription Fees.

In consideration of the rights and services provided to Customer under this Agreement, and for the Maximum Number of Cameras and Enrollments set forth in the Order Form on the first page of this Agreement, Customer shall pay FaceFirst the fees in the amount set forth on such Order Form, with the "Initial Fee" payable by September 5, 2012.

II. Out of Pocket Expenses.

The Customer shall pay for all reasonable travel and other reasonable out-of-pocket expenses incurred by FaceFirst personnel in the provision of Installation Services and Support Services, subject to the terms, conditions and limitations contained in Exhibit A to Contract Exhibit A to Contract Number 4500051341 between the parties. All such expenses will be billed as incurred. (Shouldn't this last clause read either "initial twelve (12) month trial period" or "first six (6) months of the Trial Period"?) This was an oversight. This we are not offering to waive travel and out of pocket expenses during this term.

III. Customization, Consulting and Professional Services Fees.

FaceFirst and Customer may agree on any additional fees as may be necessary to implement Customer's designs, specifications or other customizations to the Product in a manner that is unique to Customer and outside of the scope of FaceFirst's normal Installation Services. Fees for such Professional Services, or any other consulting or Professional Services subscribed by the Customer, shall be as set forth in Exhibit D of the Agreement.

IV. Wire Transfer Instructions.

Beneficiary Bank: Rabobank, N.A. El Centro, CA

Routing Number: 122238420

Beneficiary: (Account Number) 9658664401

EXHIBIT C

EQUIPMENT LIST

The following table is a list of Equipment, indicating whether such Equipment shall be supplied by FaceFirst or Customer. If the Equipment is a Third Party Product to be supplied by FaceFirst at an additional fee (Column E), Column F identifies the amount of such additional fee for such product.

NONE

EXHIBIT D

PROFESSIONAL SERVICES

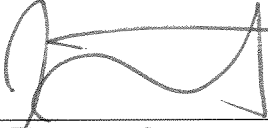
Customer may purchase additional services not covered by Exhibit A, including, without limitation advisory services with respect to security consulting. Such services will be invoiced at FaceFirst's then-current hourly rate for such services. FaceFirst's current rate as of the Effective Date for consulting and advisory services is \$275 per hour per person. For the term of this trial license, the rate will be discounted to \$165.00 per hour.

Additionally, Customer shall pay for all reasonable travel and other reasonable out-of-pocket costs and expenses incurred by FaceFirst personnel in the provision of such services, subject to the terms, conditions and limitations contained in Exhibit A to Contract Exhibit A to Contract Number 4500051341 between the parties. All such expenses will be billed as incurred.

Any such additional services shall be incorporated in an amendment to Contract Number 4500051341 between the parties.

IN WITNESS WHEREOF, the authorized representatives of the parties, intending to be legally bound hereby, have executed this Exhibit D, the Professional Services addendum to the Product Services Agreement, as of the date last set forth below.

FaceFirst, LLC.

By: 
Name (print): JOSEPH ROSENKRANTZ
Title: CEO
Date: 27-DEC-2012

CUSTOMER: SAN DIEGO DATA PROCESSING CORPORATION

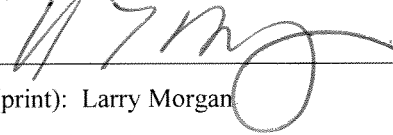
By: 
Name (print): Larry Morgan
Title: Executive Director
Date: December 24, 2012

Exhibit E

Publicity

Except as expressly permitted herein, neither party will make public announcements or issue press releases relating to this Agreement or the terms of this Agreement without the prior written consent of the other party, which consent or refusal shall not be unreasonably withheld or delayed, provided that:

- (a) Either party may originate such public announcement if required by law;
- (b) Each party reserves the right to review, within five (5) business days, the content of each public announcement, press release, website information and related publicity proposed by the other party and to request modifications to such content (which request will be considered in good faith by the other party);
- (c) Each party hereby consents to the other party's inclusion of such consenting party's name and the fact that Customer and FaceFirst have entered into this Agreement as set forth in websites, marketing materials, and sales collateral that may be published as part of the other party's marketing efforts, subject to: i) the content review right contemplated in Item (b) above; and, ii) compliance with the consenting party's applicable trademark usage guidelines then in effect; without limiting the foregoing, FaceFirst will be allowed to publicize information about its partnership with Customer on FaceFirst's website;
- (d) Each party agrees to cooperate on joint customer success stories, case studies, and media interviews.

Exhibit F

Collaboration

Customer and FaceFirst acknowledge that one of the objectives of this Agreement is to publicly share the innovations resulting from the Customer and FaceFirst collaboration.

Upon FaceFirst's request and Customer's approval of such request (which request shall be considered in good faith by Customer and SANDAG-ARJIS) and subject to the content review rights contemplated in Item (b) of Exhibit E, Customer will work with FaceFirst to provide publicity of the Product which may include periodic press releases, speaking engagements and press opportunities, generating at least one (1) case study that explains the value of the Product, writing at least one (1) white paper that explains the technical aspects of the Product and its solution, gathering and highlighting testimonials from cross-functional users, developing, if the outcome of the Product trial warrants, a model for return on investment that can be used to demonstrate the value of the Product, and mutually allowing the use of Customer and FaceFirst's corporate names in any appropriate advertising and promotions of the Product and the collaboration including websites and select collateral. Only test data may be used for publically released documentation, unless otherwise authorized by the Customer.

Upon three (3) weeks prior notice (or such shorter time as agreed by the parties from time to time), Customer will allow FaceFirst to demonstrate the Product, as operated at Customer's location, to potential customers of FaceFirst (industry peers, suppliers, vendors and others) as appropriate, to seek to establish FaceFirst's products and services as an example of best practice. Only test data may be used in the demonstrations, unless otherwise authorized by the Customer.

Upon FaceFirst's request and Customer's approval of such request (which request shall be considered in good faith by Customer), Customer will promote the value and importance of the Product and help establish the Product as an example of best practice within the industries in which Customer participates through industry associations, events and other public relations opportunities, introductions to other key law enforcement leaders in the industry, vendors, partners and customers.

Each party will allow itself to be used as a reference of the other party for business purposes.