



County of San Luis Obispo Hosted License and Support Agreement

Agreement Number: 650-2015

Revision 1.3

05/06/2015

Signed contract must be returned, to Decade by Client, within 30 days of receipt. In the event signed contract is not received by Decade within 30 days of Client receipt, prices and terms contained herein are subject to increase.

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LICENSE AND SUPPORT AGREEMENT

THIS AGREEMENT made this July 1, 2015

BETWEEN:

DECADE SOFTWARE COMPANY, LLC. ("Decade") with principal place of business at 1195 West Shaw Avenue, Fresno, California 93711, and the COUNTY OF SAN LUIS OBISPO for the benefit of the COUNTY OF SAN LUIS OBISPO ENVIRONMENTAL HEALTH DIVISION (hereinafter "Client") with principal place of business at 2156 Sierra Way, San Luis Obispo, CA 93406.

WHEREAS Decade is the developer and owner of a certain set of software products marketed using the trade name EnvisionConnect;

AND WHEREAS Client desires to obtain from Decade a revocable, non-exclusive, non-sub licensable and non-transferable license for the benefit of the County of San Luis Obispo Environmental Health Division to use Decade's Licensed Programs and services;

NOW THEREFORE this Agreement witnesses that for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and the mutual promises herein, the parties agree as follows:

Appendices

The following appendices are attached to form part of this Agreement:

Appendix	Description
Appendix A	Volumes, Prices, and Payment Schedule for License Fees
Appendix B	Dates and Term
Appendix C	Professional Services Rates
Appendix D	Third Party Software

In the event of a conflict between the main body of the Agreement and an Appendix to the Agreement, the terms of the Appendix shall prevail.

1. Definitions

- 1.1. Agreement. The agreement set forth in this document
- 1.2. Licensed Materials. The term "Licensed Materials" shall mean computer programs, in object form, and all related documentation and materials provided to Client under the terms of this Agreement. Licensed Materials shall not include Source Code.
- 1.3. Licensed Programs. The term "Licensed Programs" shall mean the object code version of the software, as well as all updates, enhancements and releases. Licensed Programs are a sub-set of the Licensed Materials.
- 1.4. Source Code. The term "Source Code" shall mean a full source language statement of the programs owned by Decade used to prepare the Licensed Programs, including any updates, enhancements, revisions and modifications thereto that are provided to Client under this

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Agreement. Source Code shall not include any source language statements for any portion of the Licensed Programs owned by or sublicensed from third parties.

- 1.5. Effective Date. The term "Effective Date" shall mean a specific mutually agreed upon date as defined in Appendix B, Dates and Term.
- 1.6. Anniversary Date. The term "Anniversary Date" shall mean a specific mutually agreed upon date as defined in Appendix B, Dates and Term.
- 1.7. Version. The term "Version" shall mean an issue of Licensed Programs, which has been made available to the Client.
- 1.8. Professional Service Request (PSR). The term "PSR" shall mean the document and process required to authorize professional services which are outside of those agreed to in Appendix A.
- 1.9. EnvisionConnect. The term EnvisionConnect shall mean the trade name for the Licensed Programs provided under this Agreement as described in Appendix A.
- 1.10. Inspector. The term "Inspector" shall mean a Client staff member whose job function requires fifty percent (50%) or more time is spent conducting field activities such as inspections or investigations.
- 1.11. Application Service Provider. The term "Application Service Provider" shall mean Decade's infrastructure and services to provide access to Licensed Programs and Client's database over the Internet, which would otherwise have to be located at the Client's site on Client's infrastructure.
- 1.12. Data Center. Decade contracts with Rackspace, Inc. to host client data and software.

2. License

- 2.1. Decade hereby grants to Client, and Client hereby accepts from Decade, subject to the terms and conditions of this Agreement, a revocable, non-exclusive, non-sub licensable and non-transferable license ("License") to use the Licensed Materials solely for Client's own use. The License shall be restricted for use with one (1) production server database with a single set of master code tables.
- 2.2. The License also authorizes Client to maintain a back up copy of the Licensed Programs for use with databases for back up and testing purposes only. Client agrees to maintain appropriate records on the quantity and location of all such copies, and produce same on demand by Decade. Client agrees to include the Decade copyright notice on all copies, in whole or in part, in any form. Client agrees to receive prior written approval from Decade before copying any portion of the Licensed Programs for any other purpose, which Decade may, at its sole and unfettered discretion, grant or not grant.
- 2.3. Client may not assign, sublicense or otherwise transfer, in whole or in part, the License, this Agreement or any of its rights or obligations hereunder, whether voluntarily, by operation of law or otherwise, without the prior written consent of Decade.
- 2.4. Client agrees to not allow access to the Licensed Programs to any third party without written permission from Decade.

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3. Ownership

- 3.1. Decade is the lawful owner or licensee of all proprietary rights whatsoever in the Licensed Materials including any changes, additions, and enhancements in the form of new or partial programs or documentation, but not as to limit the generality thereof, all copyright interests in the Licensed Materials. All copies of the Licensed Materials provided to, or reproduced by, the Client pursuant to this Agreement are, and remain the property of Decade. No rights in the Licensed Materials are granted to anyone other than those set forth in this Agreement. The Client shall use its commercially reasonable best efforts to prevent any violations of the Decade's property rights in the Licensed Materials and shall, under no circumstances, sell, lease, sublicense, assign, barter, encumber, or otherwise transfer the Licensed Materials or use the Licensed Materials for the processing of data for others, except as provided herein.
- 3.2. The Client shall have no right to modify, enhance or otherwise change the Licensed Materials in any way without the prior written consent of Decade, however the Client shall be entitled to merge the Licensed Materials into other materials to form a system, provided that upon termination of the License granted by this Agreement, the Licensed Materials will be completely removed from the system and treated as though permission to merge had never been granted. Use of the Licensed Materials in a system shall remain subject to all other terms of this Agreement.
- 3.3. The Licensed Materials and all other data or materials supplied by Decade to Client are confidential and proprietary to Decade, protected by law and of substantial value to Decade, and their use and disclosure must be carefully and continuously controlled;
- 3.4. The Licensed Materials and the Source Code are protected by the Copyright Laws of the United States.
- 3.5. All logos, trademarks and trade names of Decade are proprietary to Decade and may only be used as authorized in writing by Decade.
- 3.6. Client shall keep all property of Decade free and clear of all claims, liens and encumbrances.
- 3.7. Client shall notify Decade immediately of the unauthorized possession, use or knowledge of any item supplied to Client pursuant of this Agreement.
- 3.8. In the event Client breaches or attempts to breach any of the provisions of this Section 3, Decade shall have the right, in addition to such other remedies which may be available to it, to injunctive relief enjoining such breach or attempt to breach, it being acknowledged that legal remedies are inadequate. The provisions of this Section 3 shall survive termination of this Agreement.

4. Prices, Adjustments, and Taxes

- 4.1. Prices for license fees and professional services are contained in Appendices A and C. The original license and annual fees are based on the number of Inspectors specified in Appendix A.
- 4.2. Client agrees to pay for additional Inspectors as they are added at Decade's then prevailing license and maintenance fees.

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- 4.3. After the initial term and for successive terms thereafter, Decade will notify Client at least sixty (60) days prior to the end of the then current term of Decade's intent to increase prices for the successive term.
- 4.4. Any tax, such as sales and use taxes, exclusive of property and income taxes, that Decade is required to collect or pay based upon the sale or delivery of products or services under this Agreement shall be paid by Client to Decade, or Client shall pay directly to the taxing agency with proof of payment provided to Decade. This obligation extends retroactively if so assessed by a taxing agency.
- 4.5. If Client is using the Licensed Programs in California, and receives the Licensed Programs on tangible personal property (for example floppy disks, magnetic tape, Zip disk, CD-ROM, or any other medium by which the Licensed Programs are temporarily stored to effect transfer to Client's computer) then the full license and support fee, as well as training and conversion fees, are subject to California sales and use tax. The definition of transfer is the leaving behind of such tangible personal property. However, if the Licensed Programs are received by Client over communication lines, via the Internet, a bulletin board service or through a direct connection between Client and Decade computers, the license and support, training, and conversion fees are not subject to sales and use tax. In California, all parts and supplies are subject to sales and use tax, and hourly-based professional services, other than training and file conversion for the Licensed Programs, are not.
- 4.6. If Client is using the Licensed Programs in a state other than California then Client is responsible for knowing the sales and use tax rules of that state.
- 4.7. Decade will assess and Client agrees to pay a late charge of 1 ½ % per month, or the highest amount allowed by law, for each month a payment is 30 days past due.
- 4.8. Decade reserves the right to withhold services for non-payment of fees.
- 4.9. Section 6 lists products and services that are not included in the license and support fee. Fees for Client's use of these items are due and payable when invoiced.

5. Application Service Provider Support

The following services are included in the license, support, and Application Service Provider hosting fees:

- 5.1. Telephone Support Decade provides toll free phone support during Decade's regular business hours (6:00 A.M. to 6:00 P.M., Pacific Time, Monday through Friday, with Federal and State holidays excluded.) Authorized callers will be limited to the Client's Primary IT and Primary CS Contacts.

Holiday's Include:

- New Year's Day
- Martin Luther King Jr. Birthday
- Presidents' Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- The Friday after Thanksgiving
- Christmas Eve
- Christmas Day

Issues can be reported 24-hours a day via Decade's web-based incident reporting system, e-mail, fax, or telephone. Decade supports both the applications it develops and provides first-tier support the database backend on which these applications run.

Incident Response Time

- E-mail, Phone, or Fax Submissions: One (1) hour M-F, 6am to 6pm with Federal and State holidays excluded
- Internet Submission: instantaneous Web response with incident tracking number

- 5.2. Web-based Support All clients have 24-hour access to Decade's web resources.

- Incident Reporting
- Resolution Reporting
- System Documentation
- "Did You Know" Articles
- Online Support Forms

- 5.3. Licensed Programs Maintenance Decade will provide Licensed Programs maintenance, which includes defect fixes, and any other required modifications to keep the Licensed Programs in conformance with the specifications contained in the then current Decade Licensed Materials. Decade will amend the

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specifications only to remove documentation errors, provide consistency of interpretation or describe improvements to the Licensed Programs. Decade will correct any error or malfunction in the Licensed Programs that prevents them from operating in conformance with the then current Licensed Materials, or Decade will provide a commercially reasonable alternative that will conform to the then current Licensed Materials.

If Client's system is inoperable due to a reproducible error or malfunction, and Client is using the current release of the Licensed Programs, Decade will provide continuous effort to correct the error or malfunction.

- | | | |
|------|-----------------------------------|--|
| 5.4. | Emergency Center Data Coordinator | One (1) authorized caller, will be given this Data Center Coordinator's 24/7 Emergency Contact telephone number. This authorized caller will be the Agency's Primary IT Contact and will only resort to utilizing the emergency number in an emergency situation as defined in the terms of use. This Primary IT Contact agrees to the terms of use of the Data Center Coordinator Emergency Telephone Number: 1) Internet connectivity has been verified for the agency 2) Issue has been reproduced with a multiple users 3) There is NO connection to the database server. 4) All attempts to resolve this at the client side has failed. If any of these criteria are not met, the issue must be escalated through the toll free Technical Support incident reporting channels; not the Emergency Data Center contact. |
| 5.5. | Applying Patches and Upgrades | Decade staff transfers installation files to remote server and performs installation. |
| 5.6. | Database Backup | Decade will backup Client database daily during the scheduled maintenance window defined below. <ul style="list-style-type: none"> • Backup files are stored on tape in the Data Center. • Backup files are retained for four (4) weeks. • Backup distribution will occur by request via an FTP site. Client need only contact Decade via e-mail, phone or fax, and Decade will provide the requested data with instructions to obtain it from an FTP site. |
| 5.7. | Access Control | Dedicated Firewall - Cisco Pix 501 and Windows Authentication |
| 5.8. | Hardware Replacement | Hardware Replacement within one-hour of problem identification. Hardware is defined as: <ul style="list-style-type: none"> • Hard Disk |

- Processor(s)
- RAM
- Motherboard
- NIC Card
- Routers
- Switches
- Cabling

System diagnostics will continue after hardware replacement.

5.9. Performance

The following are average performance statistics

- 99.5% Network Uptime
- 99.5% Server Uptime
- 99.5% Application Availability

The above statistics do not include the following exceptions:

- Scheduled maintenance window (5pm-5am Mon-Fri, and 8am-5pm Sat-Sun).
- Forces majeure: Circumstances beyond Decade's reasonable control including, war, armed conflict, sabotage, embargo, fire, flood, earthquakes, tornados, labor strikes, insurrection, virus attacks or hackers, Client network and Internet issues, and DNS issues outside the direct control of Decade.

5.10. System Monitoring

Decade's monitoring service will ping the server and perform multiple port checks at 5-minute intervals. If the ping fails, the system will be rebooted.

5.11. User Community Tools

User Groups: User group meetings occur on a frequency determined by the user community. These meetings allow users to share ideas, workflows, etc. Client may send representatives to any user group meeting conducted by Decade clients.

Decade's clients use a Community Web Site to share information such as workflows for the Licensed Programs, environmental regulation workflows, user-customized reports, and general questions and answers.

Clients have the freedom to upload/download useful reports, scripts, and other files at times most convenient to them. In addition, they can join groups, be automatically notified when updates are made to their group, when questions are posed by others, when responses are provided to questions, etc.

5.12. Refresher Training

There will be no charge for refresher training conducted at Decade's office on mutually agreeable dates, if the material was covered and

the attendee(s) Attended Client's initial training. Refresher training does not include training for new Licensed Programs or Client staff that have not been trained before, which are billable services.

5.13. Client Relationship Management

Decade utilizes a Client Relationship Management (CRM) software application that enables Decade to manage every aspect of our relationship with the client. Client information acquired from sales, marketing, client service, and support is captured and stored in a centralized database to improve client satisfaction. Decade will not release any Client information without prior authorization from the Client.

5.14. Service Modification

Decade has the right to eliminate, add to, or modify these services with 60-days written notice.

6. Items Not Covered by this License and Support Fee

6.1. The following services will be provided on a fee basis. Appendix A contains prices for license fees, and all services included that are agreed upon as a condition of this Agreement. Services not specifically included can be obtained from Decade after completion and approval of a Professional Service Request (PSR) at the rates identified in Appendix C.

6.2. Support Initiated Outside Normal Working Hours

Decade's normal working hours are 6:00 A.M. to 6:00 P.M., Pacific Time, Monday through Friday, with Federal and State holidays excluded. If Client requires or initiates service outside these hours, Client will pay for such support at Decade's prevailing rates.

Holiday's Include:

- New Year's Day
- Martin Luther King Jr. Birthday
- Presidents' Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- The Friday after Thanksgiving
- Christmas Eve
- Christmas Day

6.3. Data Conversion

6.4. Data Correction or Restoration

Unless caused by Decade's negligence while working on Client's system.

6.5. Custom Programming

6.6. Software Implementation

6.7. Initial and New Staff Training

6.8. Client will reimburse Decade for out-of-pocket costs expended on Client's behalf, unless such costs are caused by Decade's negligence. These can include travel and per diem, parts and supplies, media and reproduction, and long distance calls initiated from Decade to Client's system. Decade will obtain Client's prior approval before expending more than \$100.00 per incident.

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7. Warranty and Limitation of Decade's Liability

- 7.1. Decade warrants that it is the owner or licensee of the Licensed Materials and that it has the right to grant the License granted hereunder. Decade agrees to defend Client against, and pay the amount of any adverse final judgment (or settlement to which Decade consents) resulting from third party claim(s) (hereinafter "Indemnified Claims") that the Licensed Materials infringe any copyright or patent; provided Decade is notified promptly in writing of the Indemnified Claims and has sole control over its defense or settlement, and Client provides reasonable assistance in defense of same.
- 7.2. Decade warrants that the Licensed Programs will perform substantially in accordance with its then-current Licensed Materials, at no additional cost to Client, provided that: (a) the Licensed Programs have not been modified, changed or altered by anyone other than Decade or as authorized by Decade in writing; (b) Client is operating the then-current version of the Licensed Programs; (c) Client's computer system is in good operating order and is installed in a suitable operating environment; (d) Client's computer system configuration used in the operation of the Licensed Programs meets Decade's approved specifications; (e) the error or defect is not caused by Client or its agents, employees or contractors; (f) Client promptly notifies Decade of the error or defect when it is discovered; (g) all fees then due to Decade have been paid; and (h) Client is not otherwise in breach of its obligations under this Agreement. In such event, Decade shall use its commercially reasonable efforts to cause the Licensed Programs to perform substantially in accordance with its then-current Licensed Materials as soon as reasonably practicable under the circumstances.
- 7.3. If Client notifies Decade of such error or defect and, after investigation by Decade, Decade determines that such error or defect occurred as a result of Client not being in compliance with one or more of the reasons listed in Section 7.2 above, then Client shall reimburse Decade at Decade's then prevailing rates for all costs incurred in investigating such error or defect.
- 7.4. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THERE ARE NO OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED PROGRAMS, THE LICENSED MATERIALS OR ANY UPDATES, ENHANCEMENTS OR RELEASES THERETO, OR ANY OTHER SERVICES OR GOODS PROVIDED BY DECADE TO CLIENT IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. AS AN EXPRESS LIMITATION OF LIABILITY, CLIENT'S SOLE AND EXCLUSIVE REMEDIES AND DECADE'S ONLY OBLIGATIONS UNDER THE WARRANTIES SET FORTH ABOVE AND THIS AGREEMENT IS TO CAUSE THE LICENSED PROGRAMS TO OPERATE SUBSTANTIALLY IN ACCORDANCE WITH DECADE'S THEN-CURRENT LICENSED MATERIALS OR TO CORRECT THE THEN-CURRENT LICENSED MATERIALS AT DECADE'S SOLE AND UNFETTERED DISCRETION.
- 7.5. DECADE DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE LICENSED PROGRAMS SHALL MEET CLIENT'S REQUIREMENTS OR SHALL OPERATE IN COMBINATION WITH OTHER SOFTWARE OR SYSTEMS WHICH CLIENT SELECTS FOR USE, OR THAT THE OPERATION OF THE LICENSED PROGRAMS SHALL BE UNINTERRUPTED OR ERROR FREE, OR THAT ALL ERRORS AND DEFECTS HAVE BEEN IDENTIFIED AND CORRECTED BY DECADE.
- 7.6. DECADE SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER SUFFERED OR INCURRED BY CLIENT AS A CONSEQUENCE OF THE USE OR PERFORMANCE OF THE LICENSED PROGRAMS OR

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OTHERWISE, EVEN IF DECADE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, UNDER NO CIRCUMSTANCES SHALL DECADE BE LIABLE FOR ANY LOSS, COST, EXPENSE OR DAMAGE TO CLIENT IN AN AMOUNT EXCEEDING THE SUM OF THE INITIAL LICENSE FEE ACTUALLY PAID BY CLIENT TO DECADE UNDER THIS AGREEMENT, WHETHER ARISING AS A RESULT OF: (A) ANY BREACH OF THIS AGREEMENT BY DECADE; (B) ANY ACT OR FAILURE TO ACT OF DECADE; OR (C) ANY CLAIM MADE AGAINST CLIENT BY ANY OTHER PARTY, EVEN IF DECADE HAS BEEN ADVISED OF THE CLAIM OR POTENTIAL CLAIM. CLIENT AGREES THAT IT SHALL NOT ASSERT ANY CLAIMS AGAINST DECADE BASED ON ANY THEORY OF STRICT LIABILITY.

7.7. General Indemnification

- 7.7.1. Any obligation by Decade to defend or indemnify Client shall be conditioned per Client doing all of the following:
 - 7.7.1.1. Notifying Decade of the claims, damages, losses and/or expenses in writing within a reasonable period of time, such that Decade suffers no prejudice to its rights;
 - 7.7.1.2. Giving Decade the right to control and direct the defense and settlement of that action;
 - 7.7.1.3. Making no compromise, settlement or admission of liability; and
 - 7.7.1.4. Providing reasonable assistance and cooperates in the defense of that action.
- 7.7.2. Decade's obligations as stated in this section will not apply to any claim, suit or proceeding to the extent it is based on any of the following:
 - 7.7.2.1. Any modification of the EnvisionConnect software other than by Decade, or the combination of the software with non-Decade software or any hardware that fails to comply with the EnvisionConnect hardware and software requirements;
 - 7.7.2.2. Client's use of other than the latest release of the EnvisionConnect software if Client is informed that a claim, suit or proceeding can be avoided by use of the latest release;
 - 7.7.2.3. Any use of the EnvisionConnect software not authorized by this Agreement; or
 - 7.7.2.4. Any modification or derivative work made by Decade based on Client's instructions, designs or specifications.

8. Binding Dispute Resolution

- 8.1. The parties shall use reasonable efforts to amicably settle all disputes, controversies, or differences, which may arise between them ("Dispute"). If no resolution is reached, the parties shall submit the Dispute to a mutually acceptable mediator, initiated by written demand of one party served on the other, and if the mediator determines that the Dispute cannot be resolved by mediation, then the Dispute shall be submitted to binding arbitration in accordance with the rules and regulations of the American Arbitration Association. Arbitration shall take place in San Luis Obispo, California. The arbitration award shall be supported by written conclusions of law and fact. Punitive damages shall not be permitted under any circumstances. The existence of the dispute, the dispute resolution process and the arbitrators' award shall be maintained confidential, provided that the arbitrators' award may be entered as a final judgment in any court in San Luis Obispo County, California having jurisdiction. The provisions of this Section 8 shall not

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apply to those instances in which either party is entitled to seek injunctive relief pursuant to the terms of this Agreement and desires to do so.

9. Client Responsibilities

Client is responsible for the following:

- 9.1. Timely payment of Decade invoices.
- 9.2. Use of Decade-hosted test database, prior to installing any enhancements, Versions, or Licensed Programs. This shall include testing of any changes made by the Client, including but not limited to:
 - Reports
 - Page Layouts
 - Support Codes
 - Configurations
- 9.3. Provision of appropriate operating environment for Client's computer system, Client employees, and Decade staff when at Client location.
- 9.4. Provision of knowledgeable, competent operators with an understanding of Client's operations.
- 9.5. Scheduled training to properly prepare Client's staff to use Licensed Programs.
- 9.6. Notifying Decade of a problem as soon it appears.

10. Version and Module Upgrades

- 10.1. Decade will periodically make Licensed Programs upgrades and enhancements available to Client. Decade will provide the necessary instructions and software tools so Client can install the upgrades and modifications.
- 10.2. Decade will test each new Version in beta prior to releasing the software to Client. Client will be provided a test environment in which new Versions will be installed prior to the release of a production Version.
- 10.3. Client will maintain its system at the current release level of the Licensed Programs. Ninety (90) days after the release of a new Licensed Programs Version, Decade will not be obligated to maintain prior Versions. Decade will have the sole discretion to decide if new Licensed Programs are a no charge upgrade, a no charge enhancement, or a billable offering. Billable offerings are optional, and Client will not be required to purchase them to maintain the current release level.

11. Early Termination

- 11.1. Either party may terminate this Agreement for a material breach of this Agreement, provided that the party in default has not cured or corrected such breach within thirty (30) days of receiving notice of such breach from the non-breaching party. Such termination may be in addition to any other rights and remedies the terminating party may have at law or in equity.

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12. Actions Upon Termination

- 12.1. Client will cease using Licensed Materials immediately upon termination.
- 12.2. Within thirty (30) days after termination for any reason, Client will furnish Decade an affidavit certifying that the original and all copies, in whole or in part, of the Licensed Materials have been removed from Client's hardware and either returned to Decade or destroyed by Client.
- 12.3. Client will pay all amounts due Decade.
- 12.4. Decade will return to Client, all Client data in a usable electronic format.

13. Decade Staff

- 13.1. Client shall not attempt to hire any current or former Decade staff member without prior written consent from Decade.

14. Access to Client Systems

- 14.1. Client agrees to install such telephone lines, communications software, and communications equipment necessary to allow remote access to Client's computer system. This access will be used to provide technical support and problem resolution. Client shall install its own security measures to prevent unauthorized access. Client shall be responsible for all expenses associated with obtaining and installing such telephone lines and communication equipment. Decade shall provide Client with the appropriate communication software at no additional cost. In the event Decade has to access Client's system remotely, Client shall reimburse Decade for the cost of the telephone call.

15. Notice

- 15.1. Any notice, request, demand, consent, or other communications provided or permitted hereunder shall be in writing and given by personal delivery, transmitted by facsimile, or sent by ordinary mail, postage paid, addressed to the party for which it is intended at its address as follows:

For Decade:

Attention: Darryl Booth
1195 West Shaw Avenue
Fresno, CA 93711

Phone: 800-233-9847 ext. 702
Fax: 559-222-1365
E-mail: darrylbooth@decadesoftware.com

For Client:

Attention: Curtis Batson
Director of Environmental Health
2156 Sierra Way
San Luis Obispo, CA 93406

Phone: (805) 781-5550
Fax: (805) 781-4211
E-mail: cbatson@co.slo.ca.us

16. General

- 16.1. Any clause of this Agreement found to be unenforceable shall be severed from this Agreement and the remainder of the Agreement shall remain in full force and effect.
- 16.2. Any waiver of any clause of this Agreement shall not constitute a subsequent waiver of that clause or any other clause. Failure or delay of either party to enforce compliance with any clause shall not constitute a waiver of such clause.
- 16.3. This Agreement shall be governed by California law, and the court of competent jurisdiction shall be in San Luis Obispo, California.
- 16.4. In the event litigation is required to enforce performance of this Agreement, the prevailing party shall be reimbursed the costs of enforcement, including, but not limited to attorney fees and costs, witness fees and costs, and court costs.
- 16.5. This Agreement replaces all other prior agreements, orally or in writing, relating to the subject matter contained herein, including any made by other parties such as distributors, consultants, dealers or resellers. This Agreement can only be modified in writing as approved by authorized signatories of both parties.
- 16.6. This Agreement is binding upon and shall inure to the benefit of the legal successors and assigns of the parties.

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16.7. Unless otherwise provided herein, Decade may utilize third parties to provide certain services, products or licenses.

17. Acceptance of Agreement

Decade and Client have caused this Agreement to be executed by their duly authorized representatives on the respective dates entered below:

Client

Client Representative - Signature

Date Accepted

Client Representative - Printed Name

Title:

Agency or Division: County of San Luis Obispo

Phone: (805) 781-5150

E-mail:

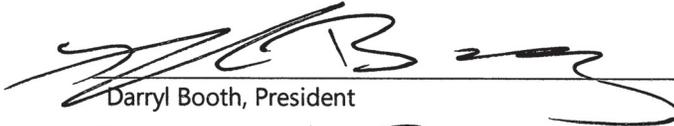
**APPROVED AS TO FORM
AND LEGAL EFFECT
Rita L. Neal, County Counsel**

By: 
Deputy County Counsel

5-20-15
Date

The person signing this Agreement on behalf of the Client warrants that they have read and understand all the terms and conditions contained herein, are authorized to sign on behalf of the Client and accept personal responsibility for damages if they are not so authorized.

Decade Software Company, LLC


Darryl Booth, President

5/18/15
Date Accepted

Darryl Booth
Printed Name

Appendix A. Volumes, Prices, and Payment Schedule for License Fees

A.1 Number of Inspectors

Inspectors and Program Areas	Numbers
Number of Inspectors	16
Number of Inspectors Using EnvisionConnect Remote	15
Number of Inspectors Using EnvisionConnect Hosting	16

A.2 Licensed Programs

EnvisionConnect –Licensed Programs Included in this Agreement:

- EnvisionConnect
- EnvisionConnect Remote Use
- EnvisionConnect Portal – Public Access
- Decade-Hosted Server SLA for Portal
- EnvisionConnect Hosting
- EnvisionConnect Press Agent
- CERS EDT (CIW)
- LIVES (Yelp) Feed
- EnvisionConnect Online

A.3 EnvisionConnect Prices

A.3.1 Prices

Ck	Annual License and Support Fees	Monthly Cost	Annual Cost
<input checked="" type="checkbox"/>	EnvisionConnect	\$ 2,548.00	\$ 30,576.00
<input checked="" type="checkbox"/>	EnvisionConnect Remote Use	\$ 709.80	\$ 8,517.60
<input checked="" type="checkbox"/>	EnvisionConnect Portal	\$ 2,496.00	\$ 29,952.00
<input checked="" type="checkbox"/>	Decade-Hosted Server SLA Flat Fee	\$ 240.00	\$ 2,880.00
<input checked="" type="checkbox"/>	EnvisionConnect Press Agent	\$ 516.36	\$ 6,196.32
<input checked="" type="checkbox"/>	EnvisionConnect ASP Hosting	\$ 704.34	\$ 8,452.08
<input checked="" type="checkbox"/>	CERS EDT (CIW)	\$ 395.20	\$ 4,742.40
<input checked="" type="checkbox"/>	LIVES (Yelp) Feed	\$ 432.00	\$ 5,184.00
<input checked="" type="checkbox"/>	EnvisionConnect Online	\$ 166.66	\$ 1,999.92

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Initial ____ Initial ____

Subtotal	\$ 8,208.36	\$ 98,500.32
Total Recurring Fees	\$ 8,208.36	\$ 98,500.32

The following One-time Professional Services Fees.

Ck	One Time Professional Service Fees	Amount
<input checked="" type="checkbox"/>	LIVES (Yelp) Fee Set-Up Fees	\$ 3,150.00
Total Professional Service Fees		\$ 3,150.00

A.4 Payment Schedule

First Year LIVES (Yelp) Feed License and Support Fees

Payment Percentage	Milestone
50 Percent	Contract signing
50 Percent	Upon first use in a Production Environment

Set-Up Fees

Payment Percentage	Milestone
100 Percent	Contract Signing

All invoices are payable net thirty (30) days.

A.5 Payment Frequency

Annual License Fees will be paid in advance monthly.

- Ck** **Payment Frequency**
- Annually
- Quarterly
- Monthly

A.6 Client Taxes

Tax	Rate	Exempt	Exemption Number
		<input type="checkbox"/>	
		<input type="checkbox"/>	

A.7 Client Contact for Billing Issues

Client Contact Person for Billing Issues
 Curtis Batson
 Director of Environmental Health
 2156 Sierra Way
 San Luis Obispo, CA 93406

Phone: (805) 781-5550
 Fax: (805) 781-4211
 E-mail: cbatson@co.slo.ca.us

Appendix B. Dates and Term

This Agreement shall become effective as specified below (“Effective Date”) or when Decade provides the Licensed Programs or services hereunder, whichever is earlier.

The month and day of the Effective Date shall determine the anniversary date (hereinafter “Anniversary Date”).

This Agreement shall have a term of three years, 07/01/15 to 06/30/18.

In the event the Agreement is not terminated, as specified herein, it shall be automatically renewed for successive one year terms on the same conditions in effect at the conclusion of the ending term.

Either party may terminate this Agreement at the end of the initial or any successive term by giving the other party at least sixty (60) days prior written notice.

Milestone Summary

Milestone	Date
Effective Date:	07/01/15
Anniversary Date	07/01/15
Agreement Term Begins	07/01/15
Agreement Term Ends	06/30/18

Appendix C. Professional Services Rates

Any services requested outside of those listed in Section 5 Support Services and agreed to in Appendix A.5 will require authorization through a Professional Service Requests (PSR) signed by both parties.

The following rates will apply for the listed professional services.

Item	Rate	Per Unit
Professional Services		
• Custom Programming	\$126.00	Hour
• Consultation	\$126.00	Hour
• Report Development	\$126.00	Hour
Training		
• Training at Client Facility	\$1,470.00	Day
• Training at Decade Facility	\$1,470.00	Day
• Training Online Using WebEx	\$183.50	Hour
Support		
• Phone Support Outside Normal Service Hours	\$189.00	Hour
• Third Party Support	\$126.00	Hour
Travel Expenses		
• An estimate of per diem travel expenses will be provided at the time the PSR is created.		

These prices may be increased annually on the Anniversary Date, upon at least sixty (60) days prior notice to client.

Appendix D. Third Party Software

SAP Crystal Reports

Crystal Reports is a database report designer and viewer owned by SAP. Decade utilizes Crystal Reports to design "canned" and custom reports that are later distributed with the Licensed Materials. The Licensed Materials includes a server-side report generation component. This is allowed under section 4.2.5 of the Crystal Reports Standard, Professional, and Developer License Agreement. Use of the server-side report generation component within the Licensed Materials is subject to the following terms.

Client agrees not to modify, disassemble, decompile, translate, adapt or reverse-engineer the Runtime Product or the report file (.RPT) format;

Client agrees not to distribute the Runtime Product to any third party;

Client agrees not to use the Runtime Product to create for distribution a product that is generally competitive with SAP product offerings;

Client agrees not to use the Runtime Product to create for distribution a product that converts the report file (.RPT) format to an alternative report file format used by any general-purpose report writing, data analysis or report delivery product that is not the property of SAP;

Client agrees not to use the Runtime Product on a rental or timesharing basis or to operate a service bureau facility for the benefit of third-parties;

SAP AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THIRD PARTY RIGHTS. SAP AND ITS SUPPLIERS SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, COVER OR OTHER DAMAGES ARISING UNDER THIS AGREEMENT OR IN CONNECTION WITH THE SOFTWARE.

Microsoft SQL Server

SQL Server

Microsoft SQL Server 2008 Standard Edition (or higher) or Microsoft SQL Server 2012 Standard Edition (or higher) is a database management system required by the Licensed Materials.

As an Application Service Provider Decade will host Client's database and provides license to Microsoft SQL Server under Microsoft's Service Provider License Agreement (SPLA). This Microsoft SQL Server license is subject to the following terms.

Client agrees not to remove, modify or obscure any copyright, trademark or other proprietary rights notices that are contained in or on the SQL Server;

Client agrees not to reverse engineer, decompile, or disassemble SQL Server, except to the extent that such activity is expressly permitted by applicable law;

MICROSOFT DISCLAIMS ALL WARRANTIES BY MICROSOFT AND ANY LIABILITY BY MICROSOFT ITS AFFILIATS OR SUPPIERS FOR ANY DAMAGE, WHETHER DIRECT OR INDIRECT, OR CONSEQUENTIAL, ARISING FROM THE USE OF THE SOFTWARE SERVICES PROVIDED THROUGH THIS AGREEMENT.

All support SQL Server will be provided by Decade. Decade must enable the automatic update feature in the SQL Server to automatically download and install critical updates to the SQL Server.

Client agrees not to market, distribute, sublicense, lease or rent the SQL Server.

Client agrees not to infringe any intellectual property or other rights of Microsoft.

Decade may disclose Client user count information as required by the SPLA.