

**Reporting Service Subscription Agreement
For Internet Access to SafeMeasures®**

This agreement is between the National Council on Crime and Delinquency, a nonprofit corporation organized under the laws of New York, with business offices in Madison, Wisconsin, USA ("NCCD") and Humboldt County Department of Health and Human Services, Social Services Branch ("Customer").

**BACKGROUND AND
PRODUCT DESCRIPTION**

- A. NCCD has developed and owns all rights, title and interest in a certain child welfare reporting service identified as the NCCD Internet Reporting Service, and referred to as SafeMeasures®. SafeMeasures uses case-level data from a child welfare agency's management information system (MIS) and publishes it via a conventional web browser in a series of concise, interactive management reports.
- B. SafeMeasures is a subscription reporting service that permits customers to monitor service delivery activity by navigating an extensive set of reports presented in graph and chart format. These reports permit them to estimate current workload demand, plan more effective service interventions, and monitor certain performance indicators established by state or federal regulatory requirements. SafeMeasures includes case-level quality control displays that agencies may employ to improve compliance with state or federal performance audits.

Acknowledging the sufficiency of the consideration exchanged, the parties agree as follows.

1. Provision of Service.

1.1 Web-Based Reports. During the Term of this Agreement, NCCD will provide Customer with interactive web-based management reports ("Management Reports"), which permit the Customer to categorize agency compliance with various measures, and permit Customer to identify the specific cases within each category. NCCD will specifically:

- (a) Provide Management Reports within 45 business days after first receiving raw MIS data from the Customer; and
- (b) Provide regular updates of Management Reports, provided that Customer or another agency regularly submits raw MIS data to NCCD for processing and analysis. Such updates will be provided within three business days of receipt of the MIS data by NCCD.

1.2 Access to Customer Data. If requested by NCCD, Customer will supply a copy of the CWS/CMS databases, or specifically designated data tables

therein, that store agency data to be used by NCCD. If data is supplied by a third party, Customer will authorize and facilitate release of the data to NCCD.

- 1.3 Access to Website Restricted. The right to access the SafeMeasures website is jurisdiction and agency-specific. Only Customer and its employees or agents may access or use the SafeMeasures website for the Customer's monitoring and reporting needs. Specifically, and without limitation, Customer may not act as a relay or intermediary allowing access to the SafeMeasures website to any third party jurisdiction, agency, individual, or business for any purpose.
 - 1.4 Internal Business. Customer may only use SafeMeasures for its own internal purposes. Customer's internal purposes do not include extending this service to third parties, except that data may be provided to state and governmental authorities if required by law.
 - 1.5 Competing Services or Products. Customer shall not use all or any part of SafeMeasures or its documentation to create a service or product that competes with, or is used in a product that competes with, all or any part of SafeMeasures, regardless of whether such service or product is distributed with or without consideration.
 - 1.6 Copyright Ownership and License. Customer acknowledges that NCCD owns the copyright in all graphic interfaces, reports, displays, and formats ("Original Works"). NCCD grants Client a fully paid-up license to display, reproduce, and distribute the Original Works for its internal purposes for the Term of the Agreement.
 - 1.7 Training. NCCD will provide training as specified in Exhibit A. Customer will provide training facility, equipment, and access to the SafeMeasures training website.
2. Data Transmission. Customer, or other party supplying MIS data, shall use one of the following methods to send weekly extracts of agency MIS data to NCCD for processing and analysis.
 - 2.1 Compact Disk. Customer or supplying party will copy data onto one or more compact disks and mail to NCCD via overnight delivery service; or
 - 2.2 Secured File Transfer Protocol (SFTP) over Secure Shell (SSH). Customer or supplying party will send data over a secure channel to NCCD's secure SSH server. This transfer may be made using a dedicated SSH file transfer client.
 3. Reporting Service Subscription Fee. Customer will pay NCCD the fees ("Reporting Service Subscription Fees") according to the payment schedule specified in attached Exhibit A and all applicable taxes related thereto unless Customer provides evidence that Customer is exempt from such taxes.

4. Updates. During the Term of this Agreement, NCCD will provide to Customer updates, error corrections, and modifications to SafeMeasures displays ("Updates") as such Updates become available. Updates do not include modifications to displays specifically requested by Customer. Any Customer requested modifications must be made by NCCD at NCCD's published service rates. NCCD reserves the right to use the displays created for Customer, and analyses to produce such displays, for other parties whether such displays were suggested by NCCD or the Customer. NCCD shall not use any Customer data in its publishing for other parties without Customer's permission.

5. Term and Termination.

5.1 Term. The Term of this Agreement shall commence on July 1, 2020 and end on June 30, 2022 unless earlier terminated pursuant to Section 5.3. After expiration of the current Term, NCCD will not provide any Updates to Customer, and Customer must cease all use of SafeMeasures.

5.2 Renewal. If Customer is not in default of this Agreement, Customer and NCCD may renew this Agreement for one additional period of two years ("Renewal Term"). Prior to the expiration of the current Term, NCCD may, in its discretion, issue a quotation of the Reporting Service Fees for the Renewal Term. Renewal of this Agreement will be effective upon (a) NCCD's issuance of a quotation of the new Reporting Service Fees, and (b) execution of a valid written amendment to this Agreement.

In order to ensure continuous access to the SafeMeasures internet reporting service, the effective date of any Renewal Term will begin one day after the previous Term expires. If a written amendment extending this Agreement is not fully executed and received by the parties hereto prior to contract expiration, NCCD reserves the right to discontinue access to the SafeMeasures internet reporting service until a renewal contract is in place.

5.3 Termination for Cause. A party may terminate this Agreement if the other party commits a material breach that is not cured within 30 days of a written notice of such material breach. This Agreement may be terminated immediately for a breach of Customer's obligation to pay fees under this Agreement or a breach of Sections 1.3, 1.4, or 1.5 of this Agreement.

5.4 Termination for Reduction or Lack of Funding. COUNTY'S obligations under this Agreement are contingent upon the availability of County, State, and/or Federal funds. In the event such funding is terminated or reduced, COUNTY shall, at its sole discretion, determine whether this Agreement shall be terminated or COUNTY'S maximum obligation reduced. COUNTY shall provide CONTRACTOR seven (7) days written notice of its intent to terminate this Agreement or its intent to reduce its maximum obligation under this Agreement.

Non-Allocation of Funds. The terms of this Agreement, and the services to be provided thereunder, are contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified, or this Agreement terminated, by Customer by giving NCCD thirty (30) days advance written notice prior to the anniversary date of the Agreement.

6. NCCD Warranty, Disclaimers and Remedies.

6.1 Warranty. NCCD warrants that:

- (a) Provided that Customer or another designated party regularly submits the required raw MIS data to NCCD, SafeMeasures will perform substantially as described in this contract and SafeMeasures promotional material.
- (b) It is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-Procurement Programs issued by the General Services Administration.
- (c) NCCD will utilize all reasonable means and due diligence to protect the confidentiality and security of Customer data.
- (d) Except for the foregoing express warranties, NCCD neither makes nor grants any other warranties, express or implied. NCCD excludes all implied warranties including specifically any implied warranty arising by statute or otherwise in or from a course of dealing or usage of trade including any and all implied warranties of merchantability, merchantable quality, or fitness for any purpose, particular, specific, or otherwise. The foregoing express warranty is the only warranty of any kind for SafeMeasures. NCCD makes no warranties whatsoever for any Original Works that have been modified by Customer, nor does NCCD warrant that SafeMeasures will be offered without interruption.
- (e) Customer acknowledges that NCCD provides no monitoring, analysis, or review of the accuracy or quality of the Customer's data accessed through SafeMeasures.

6.2 Remedies. If SafeMeasures does not operate substantially as warranted (hereinafter describe as "Noncompliance"), Customer will provide NCCD with sufficient details available to Customer about the Noncompliance to allow NCCD to reproduce it. As Customer's exclusive remedy for any Noncompliance, and as NCCD's entire liability in contract, tort, or otherwise of such Noncompliance, NCCD will either:

- (a) Correct the Noncompliance; or
- (b) If NCCD is unable to correct the Noncompliance after a reasonable opportunity to do so, Customer may:
 - (i) Request that NCCD cease publication of any demonstrably incorrect information and request a pro-rata reduction in the Reporting Service fee; or
 - (ii) Terminate the Reporting Service Subscription and receive a pro-rated refund of the Reporting Service Subscription Fee.

7. Intellectual Property Indemnification by NCCD.

7.1 Indemnification. If a third party claims that SafeMeasures infringes any copyright, patent, trade secret, or other rights of any third party, NCCD will (as long as Customer is not in material breach of this Agreement) defend Customer against such claim at NCCD's expense and NCCD will pay all damages that a court finally awards based solely on such claim, provided that Customer notifies NCCD in writing of such claim within 21 days of Customer's receipt of notice of the existence or possible existence of such claim, and further provided that Customer allows NCCD sole and exclusive control over the resolution of such claim and that Customer cooperates fully with NCCD, at NCCD's cost, in the defense of such claim and in any related settlement negotiations.

7.2 Replacement, Refund. If such a claim is made or appears possible, NCCD may, using reasonable business judgment, either secure Customer's right to continue to use SafeMeasures by modifying or replacing the portion of SafeMeasures that is the basis for the claim so that such portion of SafeMeasures is no longer infringing, or NCCD may provide Customer with a credit equal to the portion of previously paid Reporting Service Fee prorated to the remainder of the Term or Renewal Term of the Agreement.

8. Limitation of NCCD's Liability, Consequential Damages. The cumulative liability of NCCD to Customer for all claims relating to SafeMeasures and any services rendered under this Agreement, will not exceed the total amount of all Reporting Service Subscription Fees paid to NCCD by Customer for SafeMeasures during the one-year period prior to the date NCCD is notified of such claim. This limitation will not apply to third parties' indemnification obligations set forth in Section 7. In no event will NCCD be liable for any special, indirect, incidental, or consequential losses or damages even if NCCD has been advised of the possibility of such potential loss or damage. Except as set forth in Section 7, and solely to the extent provided therein, NCCD will not indemnify Customer in any way against any claim.

9. Customer Warranties. Customer warrants that:

- 9.1 Customer will only allow access to SafeMeasures as permitted under this Agreement. If Customer wishes to extend its use of SafeMeasures beyond this Agreement, Customer will obtain NCCD's prior written consent and pay the applicable Reporting Service Subscription Fees.
- 9.2 Customer will provide the requested case-based MIS data to NCCD using one of the methods described in Section 2, or if data is supplied by another party, execute all necessary agreements and permissions to release this data to NCCD.

10. General.

- 10.1 Installation. Customer is responsible for providing access to the SafeMeasures website via the Internet to its users. NCCD will, as requested, provide reasonable assistance (up to three hours) with set-up of user workstations and use of SafeMeasures via telephone, fax, or email at no additional charge to the fees as outlined in Exhibit A. Customer may hire NCCD to provide additional training or assistance at the prevailing published rates plus travel expenses.
- 10.2 Notification of Rights. In copying SafeMeasures web reports as authorized under the terms of this Agreement, Customer will not remove, suppress, or modify any notice of copyright, trademark, or other proprietary rights that appear in SafeMeasures. Customer will use reasonable efforts to keep persons with access to SafeMeasures from modifying or suppressing any of the copyright notices that appear on SafeMeasures media, documentation, files, and banners.
- 10.3 Service Fees. NCCD reserves the right to charge additional service fees if Customer seeks assistance for any other matters not explicitly covered by this Agreement.
- 10.4 Complete Agreement, Modification of This Agreement. This Agreement contains the complete and final agreement of the parties and supersedes previous understandings related to the subject matter hereof whether oral or written. This Agreement may only be modified by an amendment signed by authorized representatives of NCCD and Customer. Any term in Customer's purchase order that is in addition to or different from terms of this Agreement, other than acceptance of the Reporting Service Fees for the Renewal Term, are not part of this Agreement.
- 10.5 Non-Assignment. Neither this Agreement nor the rights of Customer under this Agreement may be transferred, leased, assigned, or shared without NCCD's prior written consent.
- 10.6 Confidentiality. Customer will not disclose SafeMeasures Original Works to anyone other than its employees, consultants (who are bound by a written confidentiality agreement), volunteers, and interns except for

information that is or later enters the public domain through no fault of Customer.

- 10.7 Waiver. The waiver by either party of any default or breach of this Agreement does not constitute a waiver of any other default or breach of this Agreement or a subsequent waiver of that same default or breach.
- 10.8 Governing Law and Severability. The laws of the State of California and the United States govern this Agreement. If any part of this Agreement is held to be invalid, that part will be omitted, but the balance of the Agreement will remain in full force and effect.
- 10.9 Survival. All provisions of this Agreement relating to warranties, confidentiality, non-disclosure, proprietary rights, limitation of liability, indemnification obligations, and payment obligation survive the termination or expiration of this Agreement.
- 10.10 Relationship of Parties. No person performing any of the work or services described herein shall be considered an officer, agent, servant, or employee of Customer, nor shall any person be entitled to any benefits, including but not limited to Worker's Compensation Benefits, available or granted to employees of Customer. Nothing herein shall be construed as creating a partnership or joint venture between NCCD and Customer.
- 10.11 Compliance With Laws. NCCD agrees to comply with all local, state, and federal laws and regulations, including but not limited to the Americans with Disabilities Act. NCCD further agrees to comply with any applicable federal, state, or local licensing standards, and any other applicable standards or criteria established locally or by the state or federal governments.
- 10.12 Confidential Information. In the performance of this Agreement, CONTRACTOR may receive confidential information. Said information may be confidential under the laws of California, including but not limited to Welfare and Institutions Code Sections 827, 10850; Division 19 California Department of Social Services Manual of Policies and Procedures, Confidentiality of Information; and/or the laws of the United States. CONTRACTOR shall comply with all laws regarding confidentiality and shall advise and require all subcontractors to comply with the laws of confidentiality.
- 10.12 HIPAA Compliance. NCCD will utilize all reasonable means and due diligence to protect the confidentiality and security of Customer data. Customer acknowledges that the privacy and security regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (the "HIPAA Privacy and Security Rules") do not apply to the Customer data that is the subject of this Agreement, because the data is not subject to requirements of HIPAA. However, NCCD acknowledges that the

Customer data may include health information and other information of a personal and sensitive nature, and will adopt and keep current confidentiality and security procedures that are reasonably consistent with the current professional standards recommended by the HIPAA Privacy and Security Rules.

- 10.13 Nuclear Free Humboldt County Ordinance. NCCD certifies by its signature below that it is not a Nuclear Weapons Contractor, in that NCCD is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapon components as defined by the Nuclear Free Humboldt County Ordinance. NCCD agrees to notify Customer immediately if it becomes a nuclear weapons contractor, as defined above. Customer may immediately terminate this agreement if it determines that the foregoing certification is false or if NCCD becomes a nuclear weapons contractor.
- 10.14 Headings. The headings used herein are for reference and convenience only and will not be used to interpret any provision of this Agreement.
- 10.15 Notices. All notices or other communications required or permitted under this Agreement will be in writing and will be delivered by personal delivery, email (with delivery receipt), registered mail return receipt requested, a "Next Day Air" delivery service, or by facsimile transmission, addressed to the parties indicated below.

If to NCCD: NCCD
520 3rd Street. Suite 101
Oakland, CA 94607
Attn: Shane Fetters
Email: Sfetters@nccdglobal.org
Phone: (800) 306-6223; Fax: (608) 831-6446

If to Customer: County of Humboldt
Department of Health and Human Services
Children and Family Services
Attn: Child Welfare Services Director
2440 6th Street
Eureka, CA 95501
Phone: (707) 388-6688; Fax: (707) 445-6254

Direct invoices to: County of Humboldt
Department of Health and Human Services
Attn: Fiscal/CWS Budget Line Analyst
507 F Street
Eureka, CA 95501
Phone: (707) 441-5430; Fax: (707) 441-5590

11. Indemnification Requirements.

- 11.1 CONTRACTOR shall hold harmless, defend and indemnify the COUNTY and its officers, officials, employees, volunteers and elective and appointive boards from and against any and all liability loss, all claims, losses, damages, including damage expense, costs (including without limitation, costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR'S performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of the COUNTY. This indemnification shall extend to claims, losses, damages, injury, and liability for injuries occurring after completion of CONTRACTOR'S services, as well as during the progress of rendering such services.
- 11.2 Acceptance of insurance required by this Agreement does not relieve CONTRACTOR from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by CONTRACTOR'S operations regardless if any insurance is applicable or not.

12. Insurance Requirements.

- 12.1 This Agreement shall not be executed by COUNTY, and CONTRACTOR is not entitled to any rights hereunder, unless certificates of insurance or other sufficient proof that the following provisions have been complied with, are filed with the Clerk of the Humboldt County Board of Supervisors.
- 12.2 General Insurance Requirements. Without limiting CONTRACTOR's indemnification obligations provided for herein, CONTRACTOR shall, and shall require that all subcontractors hereunder, take out and maintain, throughout the entire period of this Agreement, and any extended term thereof, the following policies of insurance, placed with insurers authorized to do business in the State of California with a current A.M. Bests rating of no less than A: VII or its equivalent against personal injury, death and property damage which may arise from, or in connection with, the activities of CONTRACTOR, its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors:
- (a) Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence form CG 0001), in an amount of Two Million Dollars (\$2,000,000.00) per occurrence for any one incident, including, but not limited to, personal injury, death and property damage. If a general aggregate limit is used, such limit shall apply separately hereto or shall be twice the required occurrence limit.
 - (b) Automobile/Motor Liability Insurance with a limit of liability not less than One Million Dollars (\$1,000,000.00) combined single limit

coverage. Such insurance shall include coverage of all owned, hired and non-owned vehicles. Said coverage shall be at least as broad as Insurance Service Offices Form Code 1 (any auto).

- (c) Workers' Compensation Insurance, as required by the Labor Code of the State of California, with statutory limits, and Employers Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. Said policy shall contain, or be endorsed to contain, a waiver of subrogation against COUNTY, its agents, officers, officials, employees and volunteers.
- (d) Professional Liability Insurance – Error and Omission Coverage including coverage in an amount no less than Two Million Dollars (\$2,000,000.00) for each occurrence (Four Million Dollars (\$4,000,000.00) general aggregate). Said insurance shall be maintained for the statutory period during which CONTRACTOR may be exposed to liability. CONTRACTOR shall require that such coverage be incorporated into its professional services agreements with any other entities.

12.3 Special Insurance Requirements. Said policies shall, unless otherwise specified herein, be endorsed with the following provisions:

- (a) The Comprehensive or Commercial General Liability Policy shall provide that COUNTY, its agents, officers, officials, employees and volunteers, are covered as additional insured for liability arising out of the operations performed by or on behalf of CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its agents, officers, officials, employees and volunteers. Said policy shall also contain a provision stating that such coverage:
 - (i) Includes contractual liability.
 - (ii) Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to as "XCU Hazards."
 - (iii) Is the primary insurance with regard to COUNTY.
 - (iv) Does not contain a pro-rata, excess only and/or escape clause.
 - (v) Contains a cross liability, severability of interest or separation of insureds clause.

- (b) The above-referenced policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY in accordance with the notice provisions set forth herein. It is further understood that CONTRACTOR shall not terminate such coverage until COUNTY receives adequate proof that equal or better insurance has been secured.
- (c) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.
- (d) For claims related to this Agreement, CONTRACTOR's insurance is the primary coverage to COUNTY, and any insurance or self-insurance programs maintained thereby are excess to CONTRACTOR's insurance and will not be used to contribute therewith.
- (e) Any failure to comply with the provisions of this Agreement, including breach of warranties, shall not affect coverage provided to COUNTY, its agents, officers, officials, employees and volunteers.
- (f) CONTRACTOR shall furnish COUNTY with certificates and original endorsements effecting the required coverage prior to execution of this Agreement. The endorsements shall be on forms approved by the Humboldt County Risk Manager or County Counsel. Any deductible or self-insured retention over One Hundred Thousand Dollars (\$100,000.00) shall be disclosed to, and approved by, COUNTY. If CONTRACTOR does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance, and CONTRACTOR agrees to pay the cost thereof. COUNTY is also hereby authorized with the discretion to deduct the cost of said insurance from the monies owed to CONTRACTOR under this Agreement.
- (g) COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered, and CONTRACTOR shall be required to purchase additional coverage to meet the above-referenced aggregate limits.

12.4 Insurance Notices. Any and all insurance notices required to be given pursuant to the terms of this Agreement shall be sent to the addresses set forth below in accordance with the notice provisions described herein.

COUNTY: County of Humboldt

Attn: Risk Management
825 Fifth Street, Room 131
Eureka, California 95501,

CONTRACTOR: National Council on Crime and Delinquency
Attention: Laurie J. Wetzel
1970 Broadway, Suite 500
Oakland, California 94612-0511

13. Counterpart Execution.

This Agreement, and any amendments hereto, may be executed in one (1) or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one (1) and the same agreement. This Agreement, and any amendments hereto, may be signed by manual or electronic signatures in accordance with any and all applicable local, state and federal laws, regulations and standards, and such signatures shall constitute original signatures for all purposes. A signed copy of this Agreement, and any amendments hereto, transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement and any amendments hereto.

IN WITNESS WHEREOF, both parties have caused this Agreement to be executed by their respective duly authorized representatives.

Customer (Humboldt County):


Signature

Kristin Kovacs
Name

Risk Manager
Title


5/7/2020
Date


Signature

Estelle Fennell, Chair
Name

Humboldt County Board of Supervisors
Title

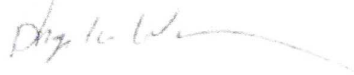
6/2/2020
Date

NCCD: 
Signature

Katherine H. Park
Name

Chief Executive Officer
Title

May 6, 2020
Date


Signature

Angela Wolf
Name

Chief Program Officer
Title

May 6, 2020
Date

Exhibit A

Reporting Service and Additional Fees

Renewal Period

July 1, 2020 – June 30, 2022

Two-Year Reporting Service Fee

\$25,179

Payment Schedule

50% of Reporting Service Fee (\$12,589) on contract effective date (July 1, 2020).
Remainder of Reporting Service Fee (\$12,589) on anniversary date of contract (July 1, 2021).

Training

Humboldt County has requested additional training each contract year in order to address staff turnover issues.

NCCD will provide one two-day onsite visit in both Year 1 and Year 2 of this renewal period (training sessions are four hours long – this provides four sessions in each onsite visit). Training will be provided at no additional cost and includes travel expenses. Scheduling will be mutually agreed upon by Humboldt County and NCCD.

Additional/Onsite Support/Training (if requested by Customer)

Time and Materials at \$125 per hour
All Travel Expenses

County Responsibilities

- Designate at least one local SafeMeasures administrator to maintain user IDs and to coordinate the handling of questions or problems regarding SafeMeasures with NCCD.
- Provide access to the Internet SafeMeasures website:
<https://app.safemeasures.org/ca>