

THIS BUSINESS ASSOCIATE AGREEMENT (“Agreement”) is entered into on this _____ day of _____, 2024, (“Effective Date”) by and between Planned Parenthood: Shasta-Diablo, Inc. dba Planned Parenthood Northern California at 2185 Pacheco Street, Concord, CA 94520 (“**Covered Entity**”) and Humboldt County Public Health Laboratory, located at 529 I Street, Eureka, CA 95501, (“**Business Associate**”) (each a “Party” and collective the “Parties”).

Covered Entity and Business Associate agree as follows:

I. Other Business Associate Agreements Terminated.

All other existing business associate agreements between the Parties pertaining to the subject matter of this Agreement are herewith terminated.

II. Definitions.

The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in other sections of this Agreement. Terms used, but not otherwise defined in this Agreement, shall have the same meaning as those terms in the HIPAA Rules (as defined below), including any amendments thereto.

- (a) Breach shall have the same meaning as that term in 45 CFR 164.402.
- (b) Breach Notification Rule shall mean the rules set forth at 45 CFR Part 164, Subpart D.
- (c) Business Associate shall have the same meaning as that term in 45 CFR 160.103.
- (d) Electronic Media shall have the same meaning as that term in 45 CFR 160.103.
- (e) Electronic Protected Health Information or e-PHI shall have the same meaning as that term in 45 CFR 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.
- (f) Electronic Health Information or EHI shall have the same meaning as that term in 45 CFR 171.102.
- (g) Enforcement Rule shall mean 45 CFR, Part 160, Subparts C-E.
- (h) Information Blocking shall have the same meaning as set forth in 45 CFR 171.103.
- (i) Individual shall have the same meaning as that term in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45

CFR 164.502(g).

- (j) Privacy Laws shall mean the federal Privacy, Security, Breach Notification and Enforcement Rules at 45 CFR Part 160 and Part 164, the California Medical Information Act (CMIA), related regulations and any other applicable state or federal laws or regulations affecting or regulating the privacy or security of health information.
- (k) Protected Health Information or PHI shall have the same meaning as that term in 45 CFR 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.
- (l) Required By Law shall have the same meaning as that term in 45 CFR 164.103.
- (m) Secretary shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- (n) Security Incident shall have the meaning given to such term in 45 C.F.R. 164.304 but shall not include: (i) unsuccessful attempts to penetrate computer networks or servers maintained by Contractor, and (ii) immaterial incidents that occur on a routine basis, such as general pinging or denial of service attacks.
- (o) Security Rule shall mean 45 CFR Parts 160 and 164, Subparts A and C and definitions applicable thereto.
- (p) Subcontractor shall have the same meaning as that term in 45 CFR 160.103.
- (q) Unsecured PHI shall have the same meaning as that term in 45 CFR 164.402.
- (r) Use shall have the same meaning as that term in 45 CFR 160.103.

III. Obligations and Activities of Business Associate

Business Associate shall:

- (a) Not use or disclose PHI other than as permitted or required by this Agreement or as otherwise Required By Law.
- (b) Provide Covered Entity upon request Business Associate's HIPAA policies, procedures and audits or other evidence of HIPAA compliance.
- (c) Use appropriate safeguards and comply with the Security Rule with respect to e-PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement.

- (d) Mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI that constitutes a violation of any requirement of this Agreement or of the HIPAA Rules.
- (e) Notify Covered Entity without unreasonable delay, and in any event on or before five (5) business days after its discovery, of any: (1) Security Incident of which it becomes aware; and (2) any use or disclosure of PHI not provided for by this Agreement, including any Breach of which it becomes aware, as required by 45 CFR 164.410, and subject to the further provisions of paragraph III(f) below. Business Associate further agrees to train its employees and agents on detection of such Security Incidents and Breaches and the necessity to make timely reports of same. Any and all notices required pursuant to the terms and conditions of this provision shall be submitted to Covered Entity at the following address:

Attention: Koren Stevenson
Title: Privacy Officer
Address: 2185 Pacheco Street
Concord, CA 94520
Phone: (925) 887-5252
Email: kstevenson@ppnorcal.org

PHI breaches and/or security events will also be reported by the Business Associate To the Humboldt County Department of Health and Human Services Compliance Office via email and compliance line:

Attention: Amy Cone
Title: Compliance and Quality Assurance Administrator & Privacy Officer
Phone: (833) 691-1200 (toll free)
Email: dhhscompliance@co.humboldt.ca.us

- (f) Further Breach Notification Provisions: The notice required under paragraph III (e) above shall apply to any incident that involves any acquisition, access, use, or disclosure of PPNorCal patients' PHI not authorized by the Privacy Laws, even if Business Associate believes the incident does not rise to the level of a Breach. The notification shall include, to the extent possible, and shall be supplemented on an ongoing basis with:
 - (1) the identification of all individuals whose Unsecured PHI was or is believed to have been involved;
 - (2) all other information reasonably requested by Covered Entity to enable Covered Entity to perform and document a risk assessment in accordance with the Breach Notification Rule with respect to the incident; and
 - (3) all other information reasonably necessary to provide notice to individuals,

the Secretary and/or the media in accordance with the Breach Notification Rule. For the purposes of this Agreement incidents shall be treated as discovered as of the time set forth in 45 CFR 164.410. Notwithstanding the foregoing, in Covered Entity's sole discretion and in accordance with its directions, Business Associate shall conduct, or pay the costs of conducting, an investigation of any incident required to be reported to Covered Entity under this paragraph (f).

- (g) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such information, and provide the names of such Subcontractors to Covered Entity, upon its request.
- (h) Provide access to PHI maintained in a Designated Record Set about an Individual, to Covered Entity or at the request of Covered Entity, to an Individual, at a time and in a manner reasonably requested by Covered Entity, and all in accordance with the requirements under 45 CFR 164.524 and as required under 45 CFR 171 to prevent Information Blocking.
- (i) To the extent PHI in Business Associate's possession constitutes a Designated Record Set, make available PHI for amendment, and incorporate any amendment(s) to PHI that Covered Entity directs or agrees to, in the time and in a manner reasonably requested by Covered Entity, and all in accordance with 45 CFR 164.526.
- (j) Make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Secretary, in a time and manner reasonably agreed upon or designated by the Secretary, for purposes of the Secretary determining Covered Entity's or Business Associate's compliance with the HIPAA Rules.
- (k) Document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.
- (l) Provide to Covered Entity or an Individual, in the time and manner reasonably requested by Covered Entity, information received or collected by Business Associate, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.
- (m) Comply with all provisions of 45 CFR 164.522 as directed by Covered Entity, including without limitation, complying with restrictions on uses and disclosures of PHI requested by the Individual and agreed to by the Covered Entity and accommodating an Individual's reasonable requests for confidential communications.

- (n) Notify Covered Entity in writing within three (3) days after its receipt directly from an Individual of any request for an accounting of disclosures, access to, or amendment of PHI or for confidential communications.
- (o) To the extent Business Associate carries out the Covered Entity's obligations under the Privacy Laws, comply with the requirements of the Privacy Laws with regard to such obligation.
- (p) To the extent Business Associate carries out access, exchange or use of EHI on behalf of Covered Entity, assist Covered Entity in complying with 45 CFR 171 to prevent Information Blocking.

IV. Permitted Uses and Disclosures by Business Associate.

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Memorandum of Understanding ("Underlying Agreement") (collectively "Services").
- (b) Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- (c) Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (d) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).
- (e) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services relating to the health care operations of the Covered Entity.

V. Obligations of Covered Entity.

Covered Entity shall:

- (a) Notify Business Associate of any limitation(s) in its Notice of Privacy Practices, in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (b) Notify Business Associate of any changes in, or revocation of, permission by Individuals to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (c) Notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

VI. Term and Termination.

- (a) Termination. The Term of this Agreement shall commence as of the Effective Date and shall terminate in accordance with the termination or modification of the Underlying Agreement between the Covered Entity and the Business Associate, unless earlier terminated in accordance with subsection (b) of this Agreement.
- (b) Termination for Cause. Upon either Party's knowledge of a material breach or violation of this Agreement by the other Party, the non-breaching Party shall either:
 - (1) Provide notice and provide an opportunity for the other Party to cure the breach or end the violation, and terminate this Agreement if the other Party does not cure the breach or end the violation within thirty (30) days after receipt of notice;
 - (2) Immediately terminate this Agreement if the other Party has breached a material term of this Agreement and cure is not possible or in the absence of a cure reasonably satisfactory to the non-breaching Party; or
 - (3) Immediately terminate without further liability if the Covered Entity determines the Business Associate has violated a material term of this Agreement related to the privacy or security of the PHI.
- (c) Effect of Termination.
 - (1) Except as provided in paragraph VI (c)(2) of this section, within thirty (30) days after termination or expiration of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. PHI shall be destroyed in accordance with instructions for such destruction contained in *Guidance Specifying the Technologies and*

Methodologies that Render Protected Health Information Unusable, Unreadable or Indecipherable to Unauthorized Individuals, published on the Department of Health and Human Services website. Business Associate shall retain no copies of the PHI.

- (2) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity written notification of the conditions that make return or destruction infeasible. If Covered Entity agrees upon written notification that return or destruction of PHI is infeasible, Business Associate may retain the PHI. Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.
- (3) Business Associate shall incorporate into its agreements with Subcontractors the provisions of this section, “Effect of Termination.”

VII. Insurance and Indemnification.

- (a) Insurance. Business Associate shall maintain at least two million dollars (\$2,000,000) per occurrence and six million dollars (\$6,000,000) aggregate of cyber insurance with technology errors and omissions to cover the risks related to this Agreement and shall, upon request, provide a copy of such policy to Covered Entity.

(b) Mutual Indemnification:

- (1) Each party hereto shall hold harmless, defend and indemnify the other party and its agents, officers, officials, employees and volunteers from and against any and all claims, demands, losses, damages, liabilities, expenses and costs of any kind or nature, including, without limitation, attorney’s fees and other costs of litigation, arising out of, or in connection with, the negligent performance of, or failure to comply with, any of the duties and/or obligations contained herein, except such loss or damage which was caused by the sole negligence or willful misconduct of the other party or its agents, officers, officials, employees or volunteers.
- (2) Comparative Liability. Notwithstanding anything to the contrary, in the event that both parties are held to be negligently or willfully responsible, each party will bear their proportionate share of liability as determined in any such proceeding. In such cases, each party will bear their own costs and attorney’s fees.

- (3) **Effect of Insurance.** Acceptance of the insurance required by this MOU shall not relieve either party from liability under this provision. This provision shall apply to all claims for damages related to either party's performance hereunder, regardless of whether any insurance is applicable or not.

VIII. Miscellaneous.

- (a) **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the HIPAA Rules and other applicable law.
- (b) **Survival.** The respective rights and obligations of Business Associate under Section VI of this Agreement, and Section VII (b), (c), (d), (f) and (g) of this Agreement, shall survive the termination of this Agreement.
- (c) **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Rules.
- (e) **Counterparts.** This Agreement may be signed in counterpart, and each counterpart shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned.
- (f) **No Agency Relationship.** Nothing in this Agreement shall create an agency relationship between Covered Entity and Business Associate under the federal common law of agency or any other body of law.
- (g) **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the choice of law provisions thereof. Venue for any actions relating to this Agreement shall be in San Francisco, California.
- (h) **Assignment/Subcontracting.** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, and assigns. Business Associate may not assign or subcontract the rights or obligations under this Agreement without the express written consent of Covered Entity. To the extent that Business Associate enters into any agreement with a subcontractor, Business Associate agrees to ensure that any subcontractors that create, receive, maintain, or transmit PHI and/or ePHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information, in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2) as applicable. Covered Entity may assign its rights and obligations under this Agreement to any successor or affiliated entity.
- (i) **Entire Agreement.** This Agreement contains the entire agreement between parties and supersedes all prior discussions, negotiations, and services for like services. This

Agreement shall be interpreted in a manner consistent with the Underlying

Agreement. In the event of conflict, this Agreement shall prevail.

- (j) No Third-Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective subcontractors, successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- (k) Assistance in Litigation or Administrative Proceedings.
 - (1) Business Associate shall make itself and any agents, affiliates, subsidiaries, subcontractors or employees assisting Business Associate in the fulfillment of its obligations under this Agreement, available to Covered Entity, at no cost to Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its directors, officers or employees based upon claimed violation of the Privacy Laws, except where Business Associate or its agents, affiliates, subsidiaries, subcontractors or employees are a named adverse party.
 - (2) If a disclosure of PHI is required by law, Business Associate shall notify Covered Entity in advance to provide Covered Entity an opportunity to intervene and object (unless such notice is itself prohibited by law).
- (m) Notices. Any notice required to be given pursuant to the terms and provisions of this agreement shall be in writing and may be either personally delivered or sent by registered or certified mail in the United States Postal Service, Return Receipt Requested, postage prepaid, addressed to each party at the addresses which follow or to such other addresses as the parties may hereinafter designate in writing:

Covered Entity:
Planned Parenthood Northern California
2185 Pacheco
Concord, CA 94520
Attn: Gilda Gonzales, CEO

Contractor:
Humboldt County Public Health Laboratory
529 I Street
Eureka, CA 95501

Any such notice shall be deemed to have been given, if mailed as provided herein, as of the date mailed.

IN WITNESS WHEREOF, Covered Entity and Business Associate have caused this Agreement to be signed and delivered by their duly authorized representatives, as of the date set forth below.

Planned Parenthood Northern California
COVERED ENTITY

BUSINESS ASSOCIATE

By: _____

By: _____

Print Name: _____

Print Name: Sofia Pereira

Title: _____

Title: Public Health Director

Date: _____

Date: _____